

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

FAO No.5107 of 2017 (O&M)

Date of decision: 02.02.2018

Rajinder Singh and another

..... Appellants

Versus

Dharampal Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Dr. Surya Prakash, Advocate
for the appellants.

Mr. Amandeep Singh Rai, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

CM-15801-CII-2017

Delay condoned and the application is allowed.

Main Case

Owner and driver of the offending vehicle are in appeal against the Award passed by the Motor Accident Claims Tribunal, Faridkot allowing the claim petition filed by the claimant Dharampal Singh who lost his right foot in a motor vehicular accident.

Motor Accident Claims Tribunal has awarded a sum of Rs.7,50,000/- as compensation payable by the appellants as appellant No.2, the driver of the offending vehicle was not having any driving license.

Claimant in order to prove the accident himself appeared as CW-1. He also examined Gurkirtan Singh son of Ranjit Singh as CW-3 and Gurlal son of Harnek Singh as CW-2. As per the case set up by the claimant-respondent, Dharampal Singh was driving a motor-cycle while Gurvir Singh

was sitting on the pillion whereas Gurkirtan Singh and Gurlal Singh were following them in a separate motor-cycle. It is further the case of the claimant that appellant No.2 was driving a Duster car (SUV) owned by appellant No.1 (father and son) and while overtaking some other vehicle in a rash and negligent manner hit the motor-cycle driven by the claimant which resulted into serious injuries. The claimant was first removed to Guru Gobind Singh Medical College and Hospital, Faridkot. However, he was referred to Amandeep Hospital, Amritsar where the claimant was operated upon and his right leg was amputated.

It is further case of the claimant that one Baldev Singh, police official contacted the claimant in the hospital and obtained signatures of the claimant in blank papers with an assurance to initiate action against appellant No.2 but did not do so and instead, a compromise was recorded upon the blank paper bearing his signatures. The claimant has also filed a criminal complaint against appellant No.2 and ASI Baldev Singh.

Learned Motor Accident Claims Tribunal after analyzing the evidence brought on record recorded a finding of fact that the accident took place due to rash and negligent driving of the appellant No.2 who was not having his driving license. The Court has further recorded that the accident has taken place when appellant No.2 was overtaking some other vehicle in a rash and negligent manner. The Court has discussed the evidence of two eye-witnesses namely Gurkirtan Singh and Gurlal Singh apart from the statement of Dharampal Singh, the claimant.

Learned counsel for the appellants has vehemently argued that the appellants have been wrongly implicated in the present case as appellant No.1 was contesting the election on the ticket of Bhartiya Janta Party. He has submitted that no FIR has been registered against appellant No.2.

Learned counsel for the appellants has also referred to a daily diary report No.20 dated 18.10.2015 which has been recorded at the behest of Dharampal Singh, injured wherein Dharampal Singh has stated that the accident took place as front tyre of the vehicle bursted and the vehicle became out of control and hit the motor-cycle being driven by the claimant. The claimant has also stated that nobody is at fault and he has compromised the matter with the appellants.

This Court has considered the submission and with the able assistance of learned counsel for the parties has gone through the judgment passed by the Motor Accident Claims Tribunal as well as the photocopy of the records produced by learned counsel for the parties.

As far as the argument of learned counsel for the appellants that the appellant No.1 along with his son has been falsely implicated has no substance. The accident has been proved by examination of Gurkirtan Singh and Gurlal Singh, the eye-witnesses apart from the claimant. Even the daily diary report reliance whereof has been placed by learned counsel for the appellants also proves that accident had taken place between the motor-cycle driven by the claimant and Duster, SUV being driven by appellant No.2. It is not disputed before this Court that the appellant No.2 was not having any driving license. It is not also disputed before this Court that the claimant lost his right foot and some part of the leg and suffered from 50% permanently disability. The claimant from the very beginning has stated that Baldev Singh, the Assistant Sub-Inspector, Police under the influence of appellant No.1 got his signatures on the blank papers under the pretext that FIR would be registered but no FIR was registered rather the papers were misused for recording a compromise. Still further, appellant No.1 claims himself to be a political leader. He was contesting elections on the ticket of Bhartiya Janta

Party whereas the claimant is a small farmer. The claimant was travelling on a motor-cycle. The claimant was admitted in Guru Gobind Singh Medical College and Hospital, Faridkot immediately after the accident from where he was referred to Amandeep Hospital, Amritsar and his leg was amputated. Such being the position, it is not believable that the appellants have been wrongly implicated in the case. The case of the claimant is also supported by two eye-witnesses. Their evidence could not be impeached by the counsel for the appellants in the cross-examination.

Still further, it is not in dispute that DDR No.20 reliance whereof has been placed by learned counsel for the appellants also records that accident has taken place. Although it is asserted that the accident took place as front tyre of the vehicle of the driver side bursted and the vehicle went out of control. One another Daily Diary Report has also been registered being DDR No.30. Merely because a FIR has not been registered, it is not safe for the Court to conclude that no accident took place particularly when apart from the injured-claimant, two eye-witnesses have been examined who have withstood the cross-examination.

In view of the discussion made above, this Court does not find any good ground to interfere with the finding of fact arrived at by the Motor Accident Claims Tribunal, Faridkot.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

02.02.2018
Dinesh Bansal

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No