

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.2695 of 2018 (O&M)

Date of Decision: August 30, 2018

United India Insurance Company Ltd.

...Appellant

Versus

Mander Singh and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.D.R.Bansal, Advocate
for the appellant – insurer.

HARINDER SINGH SIDHU, J.

The insurer has filed the present appeal challenging the award dated 11.12.2017 passed by the Motor Accident Claims Tribunal, Ferozepur (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 19.02.2016 at about 7.30 PM near the sheller of Sanjiv Kumar of village Mudki on Bagha Purana Road, a vehicular accident took place involving Scorpio No.PB-05K-8807 (herein for short 'the offending vehicle'), wherein, Mander Singh – claimant/respondent and his associate Jagmeet Singh suffered multiple injuries. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR No.21 dated 28.02.2016 under Sections 279, 337, 338 and 427 IPC regarding the accident was also registered in Police Station Ghall Khurd.

In the claim petition filed by Mander Singh, claimant-injured, it

Gurmeet Singh. He was also working as driver of jeep and tractor with said Gurmeet Singh. Besides, he was also running a dairy farm. Due to the injuries suffered in the accident, he had to remained admitted in the hospital for about 40 days i.e. from 19.2.2016 to 28.3.2016. He was operated upon for 10 times and his right leg was amputated. He suffered disability to the extent of 60%.

Considering the evidence led by the parties, the Tribunal assessed the compensation as follows:

Sr.No.		Amount
1.	Permanent disability	Rs.2,00,000/-
2.	Loss of future earnings	Rs.1,00,000/-
3.	Medicine Bills amount	Rs.4,35,700/-
4.	Loss of income during hospitalization and period of recovery	Rs.30,000/-
5.	Loss of amenities, special diet, transportation, attendant charges, pain and sufferings and mental agony ec.	Rs.50,000/-
	TOTAL	Rs.8,15,700/-

Challenging the Award, the sole argument raised by Ld. Counsel for the appellant – Insurer is that the offending vehicle has been falsely involved in the accident and also its rash and negligent driving by respondent No.2 has not been proved on record. To substantiate his argument, he has contended that the FIR in the case was registered after nine days of delay.

I have heard Ld. Counsel for the appellant – Insurer but find no merit in his submission.

The accident had taken place in the late evening of 19.2.2016.

There were two riders on the ill-fated motorcycle, which was allegedly hit by the offending vehicle. Both the occupants had suffered injuries. Mander Singh – claimant/injured, driver of the motorcycle had suffered multiple injuries, while the pillion rider Jagmeet Singh had suffered fracture in the right leg. After the accident, both of them had to be immediately shifted to a Hospital.

To prove that the accident was caused due to rash and negligent driving of the offending vehicle by its driver, the claimant – respondent examined himself as PW2, another injured Jagmeet Singh as PW3 and Gurmit Singh as PW4. He also produced on record the copy of the FIR Ex.P3. PW3 Jagmeet Singh, who was an eye-witness of the accident and also suffered injuries therein, deposed before the Court clearly that the accident had been caused due to the rash and negligent driving of the offending vehicle by its driver.

Though, the driver of the offending vehicle was examined before the Tribunal as RW1 and he stated that no accident had taken place, but during his cross-examination he admitted having driven the offending vehicle. He also admitted the registration of the FIR and the fact that he had been facing trial before the Trial Court at Ferozepur. It was also admitted by him that the offending vehicle was got released on 'sapurdari' from the Court. In view of this evidence, in a case of compensation under the Motor Vehicles Act, the Tribunal was right in concluding that the accident was caused due to rash and negligent driving of the offending vehicle.

So far as the delay in lodging the FIR is concerned, it cannot prove to be fatal in a case of granting compensation to an victim of a road

accident. The claimant – respondent had appeared before the Tribunal as PW2, wherein, in his cross-examination he stated that after the accident talks for compromise were going on with the owner and driver of the offending vehicle for bearing the expenses of their treatment. He further stated that he did not know for how long the talks went on, but when they refused to even bear the expenses, the FIR was got registered.

While dealing with the issue of delay in lodging of an FIR for an accident, in a case of compensation under the Motor Vehicles Act, the Hon'ble Supreme Court in Ravi versus Badrinarayan and others, 2011(4) SCC 693, observed:

“17. It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.”

In view of the above factual and legal position, no interference is called for in the finding recorded by the Tribunal that the accident was caused due to rash and negligent driving of the offending vehicle.

No other point was raised.

Appeal dismissed.

It is made clear that this order has been passed on an appeal filed

by the Insurance Company without hearing the injured - claimant and is confined to the contentions raised herein. It is without prejudice to the rights of the claimant to separately agitate for enhancement on any ground that may be available to him.

August 30, 2018

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No