

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

FAO-2708-2018 (O&M)

Date of Decision:-16.5.2018

Bajaj Allianz General Insurance Company Limited ... Appellant

Versus

Manjit Kumar and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashwani Talwar, Advocate for the appellant.

GURVINDER SINGH GILL, J.

CM-10035-CII-2018

There is a delay of 8 days in filing of the appeal.

In view of the reasons mentioned in the application the same is allowed. The delay of 8 days in filing of the appeal is condoned.

The application stands disposed of.

FAO-2708-2018 (O&M)

The present appeal has been filed by the appellant-insurance company assailing award dated 4.1.2018, whereby a claim petition filed by respondent No.1-Manjit Kumar, seeking compensation on account of injuries sustained by him in a vehicular accident, which occurred on 9.7.2015, has been accepted and compensation to the tune of ₹ 1.77 lacs has been awarded.

The learned counsel for the appellant-insurance company, while assailing the impugned award, has submitted that the learned Tribunal has erred in discarding cogent and convincing evidence in the shape of CCTV

coverage from the CCTV camera installed at the farmhouse of respondent No.2-Davinder Singh Bains @ Davinder Jit Singh @ Ricky, which clearly reveals that as on the day of occurrence, the offending vehicle remained parked at his farmhouse.

I have considered the aforesaid submissions and have also perused the impugned award.

In order to establish the aforesaid CCTV coverage, the respondent No.1-Manjit Kumar apart from relying upon his own statement also examined RW-4 Jasbir Singh, who deposed that he is running a business in the name and style of J.S. Networks at Jalandhar and that on asking of respondent No.2-Davinder Singh Bains @ Davinder Jit Singh @ Ricky, he had prepared the compact disc pertaining to the footage of CCTV camera brought by respondent No.2-Davinder Singh Bains @ Davinder Jit Singh @ Ricky.

I have considered aforesaid submissions. It would be hazardous to accept such kind of evidence in the absence of there being reliable evidence that the CCTV camera was working in perfect order as regards the recording of the date and time. Admissibility of such digital electronic evidence is subject to provisions of Section 65-B of Indian Evidence Act, 1972. The conditions mentioned therein are not fulfilled in the present case so as to hold the aforesaid evidence admissible. I further find that the said CCTV footage had also been passed on to the Investigating Officer but the same was not relied upon.

The learned counsel for the appellant-insurance company has next submitted that in fact the involvement of respondent No.-2-Davinder

Singh Bains @ Davinder Jit Singh @ Ricky, i.e. owner of the vehicle in question, is due to a grudge of claimant Manjit Kumar against respondent No.2-Davinder Singh Bains @ Davinder Jit Singh @ Ricky due to some previous enmity. However, I find that there is no evidence to establish any such grudge so as to falsify the assertions of the claimant as regards the manner of accident.

Having perused the impugned award, I do not find any infirmity in the findings reached at by the learned Tribunal as regards the negligence of the driver of the offending vehicle or as regards the quantum. There is no merit in this appeal and the same is hereby dismissed.

16.5.2018

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No