

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

120

FAO No.7737 of 2017 (O & M)
Date of Decision:16.01.2018

Gopal Krishan

...Appellant

Versus

Bhola Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kehar Singh Hissowal, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

Owner-appellant is in the appeal against the judgment passed by the learned Motor Accident Claims Tribunal, Sangrur allowing the claim petition under Section 166 of the Motor Vehicle Act while awarding a sum of Rs.14,68,600/- to the respondent on account of injury suffered by him. The Court has held that the claimant has suffered a permanent disability to the extent of 100% relying upon disability certificate Ex.C-1 on the file.

With a view to prove the accident, claimant examined Jaspal Singh-eye-witness, Gurwinder Singh-eye-witness and Bhola Singh-injured. After discussing the evidence available on the file, the learned Motor Accident Claims Tribunal held that the respondent-Pardeep Singh, the driver of the vehicle (Mohindra Bolero Pickup jeep) was driving the vehicle in a rash and negligent manner resulting into serious injuries to Bhola Singh-claimant.

Learned counsel for the appellant has very vehemently argued that at the time when the FIR was registered, name of the driver was not

disclosed, although, it is the case of the claimant that he knows the driver. He has submitted that in the absence of disclosure of the name in the FIR, the case set up by the claimant becomes doubtful.

I have considered the submission. No doubt, Jaspal Singh when appeared in the witness-box has stated that he had identified the driver of the jeep at the time of accident. However, Jaspal Singh is not an author of the FIR. FIR was registered at the behest of Gurwinder Singh, who is son of Bhola Singh. It has been stated by Gurwinder Singh that he and his father were going on two separate motorcycles, when the jeep driven by the alleged driver came from the side and hit his father-Bhola Singh. It is further the case of the claimant that due to impact tyre of the jeep-Bolero vehicle burst and driver ran away. He has stated in the FIR that he can recognize the driver if he is produced before him.

In view of the aforesaid overwhelming evidence, the case put forth by the claimant cannot be doubted on the ground that name of the driver has not been disclosed in the FIR. This has come in evidence that driver ran away after leaving the vehicle after the accident. If the driver had not caused the accident, there was no reason to run away. Owner has not produced any evidence to prove that the vehicle was not present in the area when the accident took place. Owner has further not disputed that he had kept Pardeep Singh as a driver for driving that Bolero vehicle involved in the accident.

Learned counsel for the appellant has further argued that the learned Motor Accident Claims Tribunal has taken the age of the injured as 55, although date of birth certificate has not been produced. In this respect,

taken to various hospitals. Medico legal report shows that age of the injured is recorded as 55. Claimants have also led evidence to prove that the age is 55, no counter evidence was produced to disprove the evidence led by the claimant, hence, conclusion arrived at by the Motor Accident Claim Tribunal is not found to be erroneous.

In last, learned counsel for the appellant has submitted that learned Motor Accident Claims Tribunal has taken the income of the injured as Rs.6,800/- on the basis of minimum wages. He has submitted that there is no evidence available on the file that injured was earning Rs.6,800/- per month.

In the present case, the claimant had filed a claim petition claiming his income to be Rs.25000/- per month by asserting that he was doing a job of plumber. It is further the case of the claimant that the accident took place when they were returning home after finishing work from village Lehal Kalan. In any case, the learned Motor Accident Claims Tribunal has taken the minimum wages as income of the deceased in the absence of any proof.

Learned counsel for the appellant has further submitted that as per disability certificate Ex.C-1, the disability is shown to be temporary, which is likely to improve. Hence, he has submitted that the Court has erred in taking the case as a case of permanent disability. In this regard, statement of Dr. Prabhsimran Singh (CW-4) is relevant. Dr. Prabhsimran Singh (CW-4) has stated that the disability may improve, however, the kind of injuries which have been received by the claimant, it would have 100% effect on his potential earning in future.

In view thereof, this Court does not find any substance even in

the last submission of learned counsel for the appellant.

Hence, there is no scope for interference.

Appeal is dismissed.

16.01.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No