

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-1512-2002 (O&M)  
Date of decision : 8.7.2019

Pardeep Kumar

.....Appellant.

Versus

Dharam Singh and others

..... Respondents.

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Jasdeep Kaur, Advocate for  
Mr. Y.S. Saini, Advocate for appellant.

Mr. Raman Mahajan, Advocate for respondents No.1 and 2.

Mr. D.P. Gupta, Advocate for respondent No. 3.

**KULDIP SINGH, J.**

Appellant-claimant has filed the present appeal against the Award dated 21.8.2001 passed by Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal') vide which the claim petition filed by the claimant-appellant was dismissed.

Brief facts of the case are that on 27.3.1998 at about 7.15 a.m., appellant-claimant, who was working as courier boy in Airlink Courier Sector 22, Chandigarh, was crossing the road at Chandigarh Ambala chowk near Hallo Majra. A scooter bearing registration No. CH-01-P-3665 being driven by respondent No. 1 in rash and negligent manner struck against him. As a result of the accident, claimant-appellant fell on the road and suffered multiple injuries. He was removed to Government Medical College

& Hospital, Sector 32, Chandigarh. According to claimant-appellant, the accident took place due to rash and negligent driving by respondent No. 1. The scooter in question was insured with respondent No. 3-Insurance Company. According to claimant-appellant, the police did not record the correct fact in the DDR and recorded a wrong DDR at Police Station Sector-31, Chandigarh.

Respondents No. 1 and 2 in the reply denied the accident and respondent No. 3 also denied the accident.

From the pleadings following issues were framed: -

1. Whether the accident occurred due to rash and negligent driving of respondent No. 1? OPP.
2. If issue No. 1 is proved then to what amount of compensation the petitioner is entitled and from whom? OPP.
3. Relief.

In support of his claim, claimant-appellant examined himself as PW-2 and also examined Amar Singh-eye witness as PW-1. He also examined Dr. Ashok Gupta, Senior Medical Officer as PW-3. Respondent-Dharam Singh examined himself as RW-1 and closed the evidence.

After hearing both the parties, the Tribunal while deciding issue No. 1 held that respondent No. 1 was not rash and negligent in driving the scooter. Hence, the Tribunal decided the issue No. 1 against the claimant-appellant. While deciding issue No. 2, it was held that claimant-appellant is entitled to compensation the tune of Rs. 15,000/-. However, in view of issue No. 1, this issue was decided against the claimant-appellant and claim petition was dismissed.

Heard, the learned counsel for the parties and have also carefully gone through the case file.

The Tribunal has placed heavy reliance upon the DDR No. 6 dated 27.3.1998 recorded at Police Station, Sector 31, Chandigarh by SI, Bhajan Singh. In the DDR, it is recorded that at 8.50 A.M., SI Bhajan Singh along with his fellow officials after visiting the place of accident at Hallo Majra visited Government Medical College & Hospital, Sector 32, Chandigarh and after obtaining opinion of the doctor recorded the statement of Pardeep Kumar-injured. Pardeep Kumar has stated that at 7.15 a.m., he was crossing Chandigarh Ambala chowk at Hallo Majra chowk. Then a scooter bearing No. CH-01-P-3665, Bajaj Chetak being driven by Dharam Singh came from Chandigarh side. The scooterist who was driving on the correct side suddenly hit him. As a result of which he received injuries on his shoulder. The accident took all of sudden in which scooterist was not at fault. He does not want to take action against anybody. The DDR shows that the accident had in fact taken place. Claimant-appellant who is not an influential person, states that DDR was wrongly recorded and is not a voluntary statement. Amar Singh-eye-witness appeared as PW-1. He has stated that he had witnessed the occurrence. He had further stated that scooter was being driven in rash and negligent manner and hit Pardeep Kumar. Pardeep Kumar had also made the similar statement as PW-2. He stated that he was admitted in Government Medical College & Hospital, Sector 32, Chandigarh from where he was shifted to General Hospital, Sector 16, Chandigarh for treatment. He received multiple injuries on his

body and his left leg was totally damaged. Plates were inserted in his left leg at General Hospital, Sector 16, Chandigarh by performing one operation. His leg has been shortened by 1 inch. He remained admitted in hospital from 17.3.1998 to 16.4.1998.

Dharam Singh, driver in his statement has denied the accident altogether. Now the question would arise as to whether there was rash and negligent driving on the part of Dharam Singh driver? I am of the view that the DDR recorded by the police cannot be accepted as gospel truth. In the DDR it is stated that though the scooter was coming on the correct side but it hit the claimant-appellant. It cannot be assumed that even while coming from the right side one cannot be rash and negligent. It appears that the police did not want to register the FIR and therefore, it recorded that there is no fault on the part of the scooter driver and complainant does not want to take any action in the matter. Therefore, it filed the matter. However, the fact remains that the scooter had hit Pardeep Kumar. If the scooter was on slow speed and coming on the correct side, the scooterist could easily apply the breaks and could not hit the pedestrian with such a force that he is thrown on the ground. Therefore, I accept the statement of Pardeep Kumar, claimant-appellant as well as eye witness- Amar Singh that the scooter was being driven in rash and negligent manner. Though, it may be coming on the correct side of the road.

As such findings of the Tribunal on issue No. 1 are reversed and this issue is decided in favour of claimant-appellant.

Now coming to the quantum of compensation, it comes out that the accident is of the year 1998. Claimant-appellant was initially admitted in

Government Medical College & Hospital, Sector 32, Chandigarh. The discharge slip shows that he was operated upon in General Hospital, Sector 16, Chandigarh. Though there is no connecting evidence to show that he was shifted to General Hospital, Sector 16, Chandigarh from Government Medical College & Hospital, Sector 32, Chandigarh but there is also no evidence that in the intervening period, the claimant-appellant met with another accident. He remained admitted in General Hospital, Sector, 16, Chandigarh for about 14 days.

The Tribunal has calculated the compensation to the tune of Rs. 10,000/- for hospitalization, pain and sufferings undergone by him. For expenditure on treatment, good diet Rs. 5,000/- was awarded. I am of the view that this is just and proper compensation which was calculated by the Tribunal. Hence, the same is allowed.

As a result all the foregoing decisions, present appeal is allowed and the compensation to the tune of Rs. 15,000/- is allowed to the claimant-appellant with interest @ 7.5% per annum from the date of filing of the petition till realization.

Appeal stands allowed accordingly.

**(KULDIP SINGH)**  
**JUDGE**

**8.7.2019**  
*preeti*

Whether speaking / reasoned  
Whether Reportable:

Yes  
No