

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.699 -1995 (O&M)

Date of decision: 27.05.2019

Simru Ram

.....Appellant

versus

Jasbir Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: None for the appellant
Mr.R.K.Bashamboo, Advocate for respondent no.3

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J.

Simru Ram, Sub Inspector of Police by profession, has filed this appeal against award dated 2.12.1994 passed by Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal'), vide which, his claim petition was dismissed.

Facts of the case are that according to the claimant, on 19.2.1993, after getting free from VIP Duty, he was going on scooter bearing Registration Number HR-07-0420 from Kurukshetra to Shahabad. His brother Suresh Kumar was riding the pillion. At about 3.10 p.m., when they reached near turning point of road towards Jhansa near Shahabad on GT Road, a truck bearing Registration Number HNQ 6265 being driven rashly and negligently by respondent no.1 Jasbir Singh driver, struck against the scooter of the claimant. As a result of which, claimant as well as his

brother Suresh Kumar fell down from the scooter. Suresh Kumar did not receive any injury. However, claimant ASI Simru Ram received the injuries. He was removed in the injured condition to Civil Hospital, Shahabad by his brother Suresh Kumar and one Pawan Kumar, who runs a Tea shop near the place of accident. Number of the truck was noted by Suresh Kumar and Pawan Kumar at the spot. Truck driver sped away from the spot towards Pipli. In the first information report, truck no. was mentioned by mistake as 8292, whereas correct number is HNQ 6265. Police recorded the statement of the claimant in hospital, which forms the basis of first information report.

Before the Tribunal, respondent no.1 did not appear and was proceeded against ex-parte. Respondent nos.2 and 3 in the written statement, denied the accident. It was stated that the number of the truck is mentioned in the FIR as 8292. The claimant never met with accident with truck No.HNQ 6265 and the said truck has been wrongly involved.

From the pleadings, following issues were framed:-

- 1. Whether the accident in question resulting into injuries to the claimant was caused due to rash and negligent driving of truck No.HNQ 6265 by its driver Jasbir Singh respondent no.1 ? OPP.*
- 2. If issue no.1 is proved, whether the claimant is entitled to compensation, if so how much and from whom? OPP.*
- 3. Whether the claim petition is bad for non joinder of necessary parties and mis joinder of parties and causes of action? OPZR.*
- 4. Whether the claim petition is not maintainable, as alleged? OPR.*
- 5. Whether the claimant is stopped by his own act and conduct from filing the claim petition? OPR*

6. Whether the respondent no.1 was not having valid driving licence at the time of accident in question. If so its effect? OPR.

7. Relief.

The Tribunal while taking up issue No.1, after discussing the evidence, came to the conclusion that no accident took place with truck No.HNQ 6265. Accordingly, it was held that claimant is not entitled to any compensation. The claim petition was accordingly dismissed.

None appeared for the appellant at the time of the arguments. Therefore, case of the appellant has been considered and the counsel for respondent no.3 has been heard. I have also carefully gone through the file.

Case of the appellant is that he along with his brother Suresh Kumar was going on the scooter from Kurukshetra to Shahabad. The accident took place near the turning point of GT Road near Shahabad on 19.2.1993. FIR No.43 was registered on 19.2.1993 under Section 279 and 337 IPC. It is further case of the claimant that he was taken to the hospital by his brother Suresh Kumar and Pawan Kumar, who runs a Tea shop nearby. In the initial statement made by the claimant-appellant to the police, he mentioned the number of the truck as 8292. According to the claimant, number of the truck was noted by his brother Suresh Kumar and one Pawan Kumar. Both of them accompanied the claimant-appellant to the hospital. Claimant-appellant himself is Assistant Sub Inspector in the police and he knows the consequences of wrong mentioning of the number of the truck. Pawan Kumar and Suresh Kumar were present in the hospital when the statement of the claimant was recorded. The supplementary statement of the claimant placed on file goes to show that the supplementary statement of the claimant was recorded on 24.2.1993 i.e. five days after the accident.

There is no reason for the police not to record the statement of the claimant for five days mentioning another number of the truck. It is stated that the statements of Pawan Kumar and Suresh Kumar were recorded on the same day, wherein correct number was mentioned. The truck bearing Registration Number HNQ 6265 was taken into possession on 19.2.1993 itself. There is overwhelming evidence which goes to show that the findings of the Tribunal are correct that the accident with truck bearing Registration Number HNQ 6265 is not proved. Statements of Suresh Kumar brother of the claimant and Pawan Kumar who is stated to be running a tea shop nearby also do not inspire confidence. First of all, it is noted that as per site plan, the accident took place on GT Road. The truck came from Mohanpur road i.e. from the left side, whereas scooter was going from Pipli to Shahabad side. Therefore, truck must hit the scooter from the left side. Recovery memo of the truck does not show that any damage to the truck was noticed by the police when it was taken into possession. The report of the mechanic regarding mechanical examination of truck also does not show any damage or even scratch to the truck. So far as mechanic report of the scooter Number HR-07-0420 is concerned, there is a damage only to the head light, handle and mudguard. Break, clutch, back light and engine were ok. No other damage to the scooter was found.

I am of the view that if truck hits the scooter on a GT road from the left side, there must be damage to the left side of the scooter. Damage on the head light and handle and mudguard merely shows that scooter fell on the road without the impact of being hit by the heavy vehicle like truck. Moreover, if such an accident takes place on the GT road and truck being driven rashly and negligently hit the scooter from the left side, it cannot be

believed that the pillion rider i.e. Suresh Kumar, brother of the claimant-appellant will not receive even abrasions or contusions. The fact that it is claimed that Suresh Kumar did not receive any injury goes to show that he was not riding the pillion of the scooter, as claimed by the claimant-appellant. Perusal of the site plan shows that Tea shop of Pawan Kumar is nowhere show in the site plan. It is a GT road and there is a High School building on one side and shop of agriculture implements on the other side. Therefore, even the presence of Pawan Kumar at the spot is highly suspicious. It appears that as the claimant-appellant was serving as ASI in police and he received injuries while riding the scooter. Story of being hit by the truck was cooked up and when the original truck number given to the police did not match with the story, number of the truck was changed and the truck was readily found on the same day. It is to be noted that the driver of the truck, namely, Jasbir Singh is dead and the criminal case against him has been dropped. Therefore, I concur with the findings recorded by the Tribunal that it is not proved that the claimant-appellant met with accident with truck bearing Registration Number HNQ 6265.

Accordingly, there is no illegality or infirmity in the findings recorded by the Tribunal. Hence, the present appeal being devoid of merit is dismissed.

27.05.2019
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	Yes