

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

FAO-461-1996(O&M)

Date of decision:-4.10.2019

Babloo

...Appellant

Versus

Ram Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr. Bhuvnesh Lakhera, Advocate
for the appellant.

Mr.Rao Ajender Singh, Advocate
for the respondents No.3 to 6.

H.S. MADAAN, J.

Minor petitioner/claimant Babloo son of Sita Ram, resident of village Khatodra, Tehsil and District Mohindergarh through his guardian and uncle Rameshwar Dayal had brought a claim petition under Section 166 of the Motor Vehicles Act against the respondents i.e. Ram Singh – driver and Jai Dayal – owner of the offending vehicle i.e. JUGAR, claiming compensation to the tune of Rs.7,50,000/-.

Briefly stated, facts of the case are that on 15.6.1993 at about 10:00 a.m., petitioner/claimant was proceeding towards bus stand of village Khatodara and when he reached near the house of Chhote Lal, then offending vehicle (JUGAR) being driven by respondent No.1 – Ram Singh in a rash and negligent manner at a high speed came from village

Balana side and struck against the petitioner, who at that time was standing by the side of the wall, resultantly petitioner/claimant received multiple injuries on his right leg, right elbow, right arm, back and other parts of his body; after the accident, the petitioner/claimant was removed to Civil Hospital, Mohindergarh from where he was referred to Medical College & Hospital, Rohtak, where he was medico legally examined. The petitioner/claimant was aged about 17 years at the time of accident and was a student of 10th class and he used to assist his father in agriculture and dairy work. According to the petitioner/claimant, he had spent a sum of Rs.50,000/- on his treatment etc.

On notice both the respondents had appeared and filed a joint written statement contesting the claim petition asserting that no accident had taken place with the vehicle in question and on 15.6.1993 the said vehicle was standing in their house; that the petitioner/claimant had suffered injuries in an accident involving some unknown vehicle; that father of the petitioner had come to the respondents and told them to take petitioner to Civil Hospital, Mohindergarh for treatment and they accordingly did so; that the petitioner had got registered a false case against them due to party factionalism etc. The respondents prayed for dismissal of the claim petition.

Issues on merits were framed. Both the parties were afforded adequate opportunities to lead evidence.

After hearing learned counsel for the parties, the claim petition was dismissed by the Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as the Tribunal) vide Award dated 31.7.1995,

which left the claimant aggrieved and he has filed an appeal before this Court, notice of which was issued to the respondents.

I have heard learned counsel for the parties besides going through the record and I find that the award in question is not sustainable and is liable to be set aside.

The petitioner/claimant Babloo appearing as PW4 had provided the eye-witness account of the accident fully supporting his case given in the claim petition. PWs Babu Lal son of Shankar and Babu Lal son of Murli Dhar had supported the case of the petitioner/claimant on material points. PW1 Dr.Narvir Singh, who had radiologically examined the petitioner/claimant had proved his x-ray report as Ex.PA, whereas PW2 Dr.R.S. Sharma, Medical Officer, CHC Mohindergarh, who had medico legally examined the petitioner/claimant on 25.6.1993 finding seven injuries on his person proved copy of his MLR as Ex.PB. PW3 HC Ram Kumar had brought the FIR register and proved certified copy of the FIR as Ex.PC.

In rebuttal, the respondents had examined Dr.Dharamvir Singh, Medical Officer, CHC Mohindergarh as RW1, who had deposed that on 15.6.1993 petitioner was got admitted in casualty ward of their hospital and as per entry made in the OPD register, the petitioner and his father had given in writing that no body was responsible for the injuries and they did not want any police action and they had come only for treatment; that signatures of Babloo and his father had been obtained. A copy of that entry was proved as Ex.RA. Ram Singh (respondent No.1) appearing as RW2 had reiterated on oath his case as given in the written

statement.

The Tribunal by misappraisal of the evidence and wrong appreciation of legal and factual position had decided issue No.1 against the petitioner.

Learned Tribunal proceeded to decide the issue as if it was dealing with a criminal case and not a petition for compensation under Section 166 of the Motor Vehicles Act. The standard of proof in a criminal case is very strict since life and liberty of a person is involved, as such the prosecution is required to prove its charge against the accused beyond a shadow of reasonable doubt and as per principles of criminal jurisprudence prevalent in our country, hundreds of guilty persons may go scot-free but even one innocent should not be punished. While dealing with cases of civil nature, the yardstick to be used is preponderance of probabilities.

Furthermore, Section 166 of the Motor Vehicles Act is a piece of welfare legislation. It was enacted to provide prompt compensation to persons, who sustained injury or owner of the property damaged or to legal representatives of person, who got killed in a road side accident. Hyper technical approach is not to be adopted while adjudicating such type of petitions. The Tribunal in this case has obviously done so, which has resulted in miscarriage of justice.

From the eye-witness account provided by the petitioner/claimant and the witnesses examined by him coupled with the fact that formal FIR regarding the accident had been registered against respondent No.1, the claimant had successfully discharged the onus of

proving issue No.1 and this issue needs to have been decided in favour of petitioner and against respondents. That wrong is undone and issue No.1 is decided in favour of claimant and against the respondents.

In view of the above discussion, both the respondents are liable to pay compensation to the petitioner/claimant. The petitioner/claimant had suffered multiple injuries in the accident. He remained hospitalised for about 10 days. Keeping in view all the facts and circumstances, he deserves to be granted compensation for the money spent by him on his medical treatment, on account of loss of studies, attendant charges, special diet, transportation charges and loss of amenities.

Thus it would be proper and appropriate to award a compensation of **Rs.1,00,000/-** to the petitioner/claimant.

Accordingly, the appeal is accepted. The award in the appeal is set aside and compensation of Rs.1,00,000/- with interest @ 7.5% per annum from the date of filing of claim petition till actual realization besides cost of the petition is awarded to claimant payable by both the respondents jointly and severally.

4.10.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No