

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

FAO-772-1998 (O&M)
Date of decision : 17.7.2019

Narmada Devi (minor)

.....Appellant.

Versus

Pipal Singh

..... Respondent.

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sanjeev Gupta, Advocate for the appellant.

Mr. I.S. Pabla, Advocate for respondent.

KULDIP SINGH, J (ORAL)

Claimant-appellant namely Narmada Devi has preferred the present appeal against the award dated 12.12.1997 passed by Motor Accident Claims Tribunal (for short 'the Tribunal') vide which the claim petition filed under Section 166 of the Motor Vehicles Act, was dismissed.

The brief facts of the case are that on 17.8.1996, claimant aged about 6 years was standing nearby her fields. At about 10.30 a.m., respondent-Pipal Singh driving motor cycle Rajdoot bearing registration number HYQ 584 came rashly and negligently from Kurukshetra side and hit Narmada Devi (minor). As a result of which, Narmada Devi received multiple injuries on her head and brain. She was removed to Lok Nayak Jai Parkash Hospital, Kurukshetra and from where she was referred to PGI, Chandigarh for treatment.

Respondent in his reply denied his involvement in the accident. He stated that the version given by the claimant-appellant is incorrect. In fact, after the accident, FIR was lodged on the statement made by Bachan Singh (PW-1), uncle of the claimant-appellant, wherein, it was stated that on 17.8.1996 he along with his brother-Rattan Lal was present in their fields near Pakki Sarak leading from Kurukshetra to Lukhi. At about 10.30 a.m., a young sikh gentleman came on blue motorcycle from the side of Kurukshetra and hit his motorcycle against his niece Narmada Devi and dragged her to some distance. Complainant-Bachan Singh along with his brother Rattan Lal tried to catch hold of said motorcycle but he fled away from the spot. Complainant-Bachan Singh followed the said motor cycle and reached the house of Gurdev Singh son of Bachan Singh, wherein he learnt that the accident was caused by Kulwant Singh son of Bachan Singh. Hence, respondent has been falsely named.

From the pleadings, following issues have been framed: -

1. Whether accident resulting into injuries to Narmada Devi took place due to rash and negligent driving of Pipal Singh-driver of motorcycle No. HYQ 584? OPP.
2. If issue No. 1 is proved in affirmative, what amount of compensation is the claimant entitled to and from whom? OPP.
3. Whether the claim-petition is not maintainable in the present form? OPR.
4. Whether claimant has no locus standi to file the claim petition? OPR.
5. Relief.

While deciding issue No. 1, the Tribunal held that respondent is not involved in the accident. Hence, the claim petition was dismissed.

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

he case of the claimant-appellant is that respondent was driving the Rajdoot motor cycle bearing registration No. HYQ 584 and caused the accident. A perusal of the FIR (Annexure P-1) shows that it was lodged by one Bachan Singh who is the uncle of the claimant-appellant, on next day i.e. 18.8.1996 in which he stated different story. He stated that at about 10.30 a.m., a young sikh gentleman riding Rajdoot motorcycle hit Narmada Devi and then fled away. Narmada Devi was dragged to some distance. Then he alongwith his brother Rattan Lal picked up Narmada Devi. He ran after the said motorcycle. After some time, he took lift on another motor cycle and followed the motorcycle which was involved in the accident. He found that the said motorcycle was parked outside the house of Gurdev Singh son of Bachan Singh resident of Village Ghamur-Kheri. According to Bachan Singh, he came to know that accident has been caused by son of Kulwant Singh son of Bachan Singh. The FIR in question was lodged after more than 24 hours. Bachan Singh had followed the motorcycle and the best witness to tell about the identity of the driver of the motorcycle and the motor cycle number. In the FIR, number of the motorcycle is not mentioned. Bachan Singh had claimed in the FIR that motor cycle has entered the house of Gurdev Singh son of Bachan Singh. Present respondent is Pipal Singh son of Sawan Singh. In the evidence also, Bachan Singh complainant (PW-1) does not tell about the number of the motorcycle. Now he states that he has seen the residence at the spot and identify him. He has

clearly stated that he could not read number of the motorcycle. However, he claimed that during the investigation, police found that respondent-Pipal Singh was the author of the accident. Jai Chand (PW-2) claimed that he had seen Bachan Singh-complainant following the motor cycle of Pipal Singh bearing registration number HYQ 584. However, during the cross-examination, when he was asked to read the *English digit or alphabet* from calendar, he failed to do so. In the FIR, there is no mention that Jai Chand witnessed the occurrence.

The person on whose motorcycle, complainant-Bachan Singh followed the young sikh gentleman involved in the accident was not examined. Police during the investigation found that Pipal Singh-respondent is responsible for accident. Accordingly, he was challaned. However, investigating officer was not examined nor any record was produced from the criminal file so as to show as to on which ground police found that infact Kulwant Singh son of Bachan Singh was not involved in the accident, rather the respondent was involved.

It being so, findings of the Tribunal on issue No. 1 are affirmed. There is no illegality or infirmity found in the order dated 12.12.1997, passed by the Tribunal.

Dismissed.

(KULDIP SINGH)
JUDGE

17.7.2019
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No