

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

FAO no.1464 of 2000

Date of Decision: 14.03.2019

Subeg Singh

...Appellant

Vs.

Rakesh Mehta and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Vinod Kumar Kanwal, Advocate, for
Mr. Ashit Malik, Advocate,
for the appellant.

None for the respondents.

Amol Rattan Singh, J (Oral)

By this appeal, the appellant challenges the order impugned Award dated 18.11.1999, passed by the Motor Accident Claims Tribunal, Karnal (in short “the Tribunal”), inasmuch as it pertains to MACT Case no.14 of 1999, which was a claim petition filed by the present appellant, claiming compensation for injuries stated to have been received by him in a motor vehicle accident that took place on 28.11.1998.

Along with the said claim petition, two other claim petitions, bearing MACT Case no.13 of 1999 and MACT Case no.15 of 1999, were also decided. Those two petitions pertain to compensation for the unfortunate death of two persons in the same accident.

2. Upon pleadings of the parties, the following issues were framed by the learned Tribunal:-

“1. Whether Sonu alias Maninder Singh son of the claimants died, Subeg Singh claimant received injuries as mentioned in the claim petition and Kamaljeet Singh son of the claimants Shrimati

Mahinder Kaur and Harbans Singh died in a motor vehicular accident caused by respondent no.1, while driving car bearing Registration no.PB-11-G-1721 rashly or negligently ?OPP.

2. To what amount of compensation if any the claimants in respective claim petitions are entitled and if so against whom?OPP

3. Relief.”

As regards the issue of negligence in causing the accident, the learned Tribunal held that respondent no.1 herein was guilty of negligently driving his car bearing registration no.PB-11-G-1721, and as regards the other two claim petitions, compensation was awarded to the claimants therein, on the reasoning given in paragraphs 19 and 20 of the impugned Award.

However, as regards the appellant herein, Subeg Singh, it was found by the Tribunal that no evidence whatsoever had been led to prove the injuries sustained by him in the same accident, with it also observing that even the medico legal 'examination' report could not be placed on file. Consequently, the claim petition of Subeg Singh was dismissed for lack of evidence.

3. Before this Court, learned counsel for the appellant however points to paragraph 13 of the impugned Award, which reads follows:-

“13. The claimants also placed on record copy of report under Section 173 Cr.P.C. Ex.P1, copy of post mortem report of Kamaljit Ex.P2; copy of post mortem report of Sonu Ex.P3 and copy of MLR of Subeg Mark A and concluded their evidence.”

Thus, he submits that the copy of the medico legal report showing the injuries sustained by the appellant having been placed on record as Mark 'A' , the observation of the Tribunal to the effect that it was not placed on file, is wholly perverse.

4. Having considered the aforesaid argument, even though what is stated to be Mark 'A' is not seen to be available on the record of evidence led before the Tribunal, however, even accepting that since it is only a photocopy of such record as has been summoned by this court, and possibly the marked documents have inadvertently not been sent alongwith, with this in any case being one of those appeals the records of which were burnt in the fire incident that took place in the record room of this court in January 2011, it could not be denied by the learned counsel, that the said document, firstly, was not an exhibited document and in any case, no person was examined in support of the correctness of the document, i.e. neither was a doctor examined, nor was any person even from the record room of the hospital/clinic where the MLR is stated to have been prepared, so examined.

5. That being so, even though the appeal has remained pending for the past 19 years, upon it having been admitted to regular hearing, I see no ground to reverse what has been held by the Tribunal, due to lack of evidence proved by the present appellant.

It needs to be noticed that even before this court, (as a court of first appeal), no application under Order 41 Rule 27 of the CPC has been filed, to lead any additional evidence.

Consequently, finding no merit in the appeal, it is dismissed.

14.03.2019
vcgarg/dinesh

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes