

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5190 -2004(O&M)

Date of decision: 15.05.2019

Kailash Chander

.....Appellant

versus

Ranbir Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Vinod K. Kanwal, Advocate for the appellant
Mr.R.S.Sharma, Advocate
for respondent No.3-Insurance company

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?*

Kuldeep Singh, J. (Oral)

This appeal is filed against award dated 2.8.2004, passed by the Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal'), vide which, claim petition filed by the claimant-appellant was dismissed.

Case of the claimant-appellant is that on 4.11.2001, he purchased household goods from the market and was going on scooter bearing Registration Number HR-11-7418 being driven by Ram Karan son of Zia Lal. At about 8.00 p.m., when they reached near Panchayat Bhawan on Sonipat-Gohana Road, the offending bus bearing Registration Number HR-46A-0561 being driven by respondent no.1- driver came rashly and negligently at a high speed from Gohana side and by coming on the wrong side of the road, hit the scooter being driven by Ram Karan. As a result of which, claimant-appellant and Ram Karan fell down and sustained multiple

grievous injuries. Claimant-appellant suffered fracture on his right leg and was admitted in Civil Hospital, Sonapat, wherein he remained admitted till 14.4.2001. Thereafter, he remained bed-ridden for couple of months. He was 26 years of age at the time of accident. The bus was insured with respondent no.3 – Insurance company.

In the reply, respondent no.1 denied the manner of accident. It is stated that the accident took place due to negligence of scooter rider, who was driving under the influence of liquor. The scooter struck the stationary bus. Respondent no.1 took the injured to hospital. He is not at fault. Insurance company also took the same plea.

From the pleadings, following issues were framed:-

- 1. Whether petitioner suffered injuries in the motor vehicle accident caused due to rash and negligent driving of Bus No.HR-46A-0561 owned by respondent no.2 and being driven by respondent no.1 on 4.11.2001 in the area of Sonipat? OPP*
- 2. If issue no.1 is proved, to what amount of compensation the petitioner is entitled, if so and from whom? OPP*
- 3. Whether respondent no.1 was not holding a valid driving licence on the date of accident, if so its effect? OPR-3*
- 4. Relief*

The Tribunal, after scanning the evidence, came to the conclusion that the rash and negligent driving by the bus driver is not proved. Consequently, the claim petition was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the file.

It is case of the claimant-appellant that the scooter was being driven by Ram Karan. Ram Karan was not produced. However, it comes out that Ram Karan made a statement before the police that at the relevant

time, when the scooter struck against the bus, as a baby Pig came in front of the scooter and he tried to save the same. Ram Karan was not examined by the claimant-appellant. It is also not denying fact that the claimant-appellant did not lodge any FIR with the police. He even did not lodge DDR with the police nor made any complaint to the Court. Ram Karan was not produced by him to state the manner in which the accident took place. Copy of the MLR shows that it is no where recorded that the claimant-appellant was drunkard. However, it is recorded that he was brought by the conductor of the offending bus. Therefore, mere statement of the claimant-appellant that the bus was being driven rashly and negligently, cannot be accepted as a gospel truth in the absence of examination of Ram Karan. There is no evidence as to what kind of injuries were received by Ram Karan. Statement of the driver of the bus shows that according to him, the bus was stationary. The Scooterists were in drunken condition and they hit the bus. The fact remains that the conductor of the bus removed the claimant-appellant to the hospital. He did not run away from the spot. The claimant-appellant neither made any complaint to the police nor to the Court. Therefore, his statement that the bus was being driven rashly and negligently was rightly discarded by the Tribunal.

There is no ground to interfere in the impugned award.

Resultantly, the present appeal stands dismissed.

15.05.2019

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No