

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

FAO-2297-2003 (O&M)
Date of decision: 29.01.2019

Dharminder

...Appellant

Versus

Mohinder Singh and others

...Respondents

FAO-2298-2003 (O&M)
Date of decision: 29.01.2019

Ashok Kumar

...Appellant

Versus

Mohinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE B.S. WALIA

Present: Mr. R.S. Mamli, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate
for the Insurance Company.

B.S. WALIA, J. (Oral)

1. This order shall decide FAO No.2297 and 2298 of 2003 as both the appeals arise out of the same accident and award. Facts of the case are being taken from FAO No.2297 of 2003.
2. The claim petition was dismissed by the learned Motor Accidents Claims Tribunal, Kurukshetra, vide award dated

07.11.2002 on the ground that none of the claimants had produced any evidence in support of their respective claims.

3. Brief facts of the case leading to the filing of the instant appeals are that FAO No.2297 of 2003 was filed by Dharminder, while FAO No.2298 of 2003 was filed by Ashok Kumar for grant of compensation in respect of damage to Maruti car No.DL-2CE/8480 in a motor vehicular accident on 28.07.2000 when his brother Ashok Kumar was coming in Maruti car No.DL-2CE/8480. As per the claim petition, while he was turning the car towards Pipli after giving signal one Tata Sumo No.PB-01/2945 came from Pipli side and hit the maruti car from behind as a result of which the car of the appellant got damaged and his brother Ashok Kumar suffered serious injuries while one helper namely, Mohinder Kumar sitting on the rear seat of the car died as a result of the said accident. The car was got released on sapurdari by the appellant and got repaired from Hanee Motor Workshop, Pehowa road Kurukshetra by spending a sum of Rs.50,000/-. Accordingly, appellant claimed Rs.50,000/- along with interest towards damage of Maruti car No.DL-2CE/8480.

4. On the other hand, FAO No.2298-2003 was filed by Ashok Kumar against Mohinder Singh for grant of compensation on account of injuries sustained in the aforesaid motor vehicular accident. In the written statement filed on behalf of the driver and owner of Tata Sumo No.PB-01/2945, it was contended that the

claimant himself was negligent in driving Maruti car No.DL-2CE/8480. Consequently, the owner and driver were not liable to pay compensation and in fact, it was the Maruti car No.DL-2CE/8480 which was being driven by the appellant Ashok Kumar in a rash and negligent manner and the accident was caused due to the sole negligence of driver of Maruti car No.DL-2CE/8480.

5. Learned tribunal dismissed the claim for damages to Maruti car No.DL-2CE/8480 allegedly caused by Tata Sumo No.PB-01/2945 as also the claim for compensation of Rs.1,50,000/- by Ashok Kumar on account of injuries suffered by him while driving Maruti car No.DL-2CE/8480 which was hit by Tata Sumo No.PB-01/2945 on the ground that none of the claimants had produced any evidence whatsoever in support of their respective claims on the file in any form nor had stepped into the witness box to depose in their favour.

6. In the aforementioned circumstances, the learned tribunal held that the appellant/claimant had failed to prove the rash and negligent driving of Tata Sumo No.PB-01/2945 driven by respondent No.1. Accordingly, it was held that the accident which resulted in damage of Maruti car No.DL-2CE/8480 and injuries to Ashok Kumar was not caused by the rash and negligent driving of respondent No.1, therefore, the appellant/claimants were not entitled to compensation on any account.

7. Neither has any evidence been referred to by learned counsel for the appellant in support of the claim having been led before the learned tribunal nor has reference to any evidence as having been placed on record by way of application for additional evidence in the instant appeals been referred to, despite the appeals pertaining to the year 2003.

8. In the circumstances, no case whatsoever is made out warranting interference with the award passed by the learned Tribunal dismissing the claim petition on the ground of there being no evidence.

9. Accordingly, both the appeals are dismissed.

29.01.2019

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(B.S. WALIA)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No