

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1520 of 2013 (O&M)
Date of decision: 25.3.2019

Bijender @ Vijender Singh

.. Appellant

v.

Satyawan and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S. N. Pillania, Advocate for the appellant.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 6.11.2012 passed by the Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') has been assailed by the claimant being aggrieved of the dismissal of the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The facts emanating from the record are that on 16.7.2010, Bijender @ Vijender Singh was riding his motorcycle, when he reached near Bhambewa on Gohana-Jind road, he was hit by Maruti Ritz Car bearing registration No. HR-32C-6229 (hereinafter referred to as 'the offending vehicle'). FIR No. 93 dated 17.7.2010 was registered at Police Station Pillukhera. The driver, owner and the insurer (i.e. ICICI Lombard General Insurance Company Ltd.) of the offending vehicle were arrayed as respondents before the Tribunal.

The Tribunal dismissed the claim petition as the claimant failed

to prove involvement and rash and negligent driving of the offending

vehicle. The Tribunal relied upon the fact that the driver of the offending vehicle was acquitted in the criminal proceedings and also on cross-examination of the claimant.

Learned counsel for the appellant contends that the Tribunal erred in dismissing the claim petition relying upon the fact that driver of the offending vehicle was acquitted in the criminal proceedings.

After hearing learned counsel for the appellant and perusing the record, it is evident that the Tribunal rightly dismissed the claim petition. There is no dispute on the proposition that merely on the fact that the driver of the offending vehicle was acquitted in the criminal proceedings itself cannot be a ground for dismissing the claim petition.

There is another aspect of the matter. The claimant in his cross-examination before the Tribunal admitted the fact that he had not seen the vehicle which had hit him. It has further come in his statement that his nephew-Rajesh was at a distance of two acres from the road and was watering his fields. He took the claimant to the hospital. It has not been proved on record that Rajesh was an eye-witness to the accident. It has only been stated that he was near the place of accident and was busy in his daily routine and was irrigating his fields. It would be pertinent to note that Rajesh never stepped into the witness-box to support the claim of the claimant.

In such circumstances, the conclusion of the Tribunal dismissing the claim petition is sustained but for the reasons mentioned above as the claimant failed to prove the involvement and rash and negligent driving of the offending vehicle.

The appeal is dismissed. The issue regarding condonation of delay of 25 days is kept open as the appeal has been dismissed.

(AVNEESH JHINGAN)
JUDGE

25.3.2019
mk

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No