

208 (5)

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

FAO No.1935 of 2014

Date of Decision: 28.02.2019

Kuldeep Singh

Appellant

Versus

Gordhan Nath and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Khatri, Advocate
for the appellant.

Mr. Paul S. Saini, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 21.01.2014 passed by the Motor Accident Claims Tribunal, Jhajjar [for brevity 'the Tribunal'] in Claim Petition No. 104/2011 has been assailed in appeal by the appellant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] and being aggrieved of 50% contributory negligence attributed to him.

Brief facts of the case are that on 07.12.2010, Naveen, Anuj, Priyanka, Babita and Puja were travelling in an Indica Car bearing registration No. CG-04HB-9284 [hereinafter referred to as 'car']. The car was being driven by Kuldeep Singh. On their way, the car met with an accident with a tanker bearing registration No.GJ-12Z-3413 [hereinafter referred to as 'tanker']. As a result of the impact, the appellant sustained injuries. FIR No.579, dated 08.12.2010 was registered at Police Station Morena.

A claim petition was filed under Section 166 of the Act. The

Tribunal after considering the facts and evidence adduced held that there was head-on collision and the accident was caused due to contributory negligence of the driver of the car and tanker. The negligence was attributed to both the drivers in the ratio of 50:50. the Tribunal awarded compensation of ₹40,000/- alongwith interest @ 6% per annum. As there was contributory negligence to the extent of 50%, the appellant was held entitled to ₹20,000/- only.

Learned counsel for the appellant contends that the Tribunal erred in holding that there is contributory negligence as the driver of the tanker had not stated that the accident was caused due to the contributory negligence and had not stepped into the witness box.

Learned counsel for the insurer while defending the award argues that it was duly proved that there was a head-on collision. Further he relies upon the deposition of the occupants of the car who stated that left side of the road was closed and the driver ventured into the wrong side of the road.

From the perusal of the record, it is evident that there was head-on collision and the car was being driven on the wrong side of the road by the claimant himself. In such circumstances, no interference is called for in the findings recorded by the Tribunal that there was contributory negligence of 50%.

In view of above discussion the appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

February 28, 2019

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |