

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

F.A.O. No. 4464 of 2016(O&M)

Date of Decision: 23.09.2019

Sas Bahadur

.....Appellant.

Versus

Gurdev Singh and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Kamal K. Chaudhary, Advocate
for the appellant.

LISA GILL, J (Oral).

This appeal has been filed by the appellant, challenging impugned award dated 18.11.2015, passed by the learned Motor Accident Claims Tribunal, Panchkula,, whereby claim petition filed by him under Section 166 of the Motor Vehicles Act, seeking compensation on account of the damage suffered by the vehicle owned by him in the motor vehicle accident, which took place on 23.05.2013, has been dismissed.

Appellant, pleaded that his vehicle i.e., a Toyota Qualis bearing registration no. CH03B-3958, was damaged in the motor vehicle accident which took place on 23.05.2013 due to the rash and negligent driving of truck (tipper) bearing registration no. HR-37-B-9447 by its driver respondent no.1-Gurdev Singh. It is further pleaded that an amount of ₹1,00,000/- was spent by the appellant on the repair/denting of the car in question. Therefore, he is entitled to compensation on this account.

Claim petition was resisted by all the respondents. Dismissal of

the petition was prayed for.

From the pleadings of the parties, following issues were framed by the learned tribunal:-

1. Whether vehicle of claimant bearing No. CH03B-3958 got damaged due to motor vehicle accident which has taken place due to rash and negligent driving of respondent no.1, by driving truck No. HR37-B-9447? OPP
2. Whether claimant is entitled to for compensation, as prayed for along with interest and from whom?OPP
3. Whether respondent no.1 was not having valid driving licence at the time of accident, if so, its effect?OPD
4. Relief.

Both the parties led evidence in support of their respective claims/stands.

On considering the evidence on record, learned tribunal, held that the accident in question took place due to the rash and negligent driving of the offending vehicle bearing registration no. HR-37-B-9447, by its driver-respondent no.1. However, no merit was found in the claim sought to be set up by the appellant on the ground that no evidence was led by the claimant to prove the damage caused to the vehicle in question.

Aggrieved therefrom, present appeal has been filed.

Learned counsel for the appellant vehemently argues that the bills in respect to the damage caused to the Toyota Qualis, are on record as Ex.P-2 to Ex.P-5 and have been wrongly ignored by the learned tribunal. Merely, because there is no report of any expert or surveyor, is no reason to dismiss the claim set up by the present appellant. It is thus prayed that the present appeal be allowed.

I have heard learned counsel for the appellant and have gone through the record which was requisitioned with his assistance.

Appellant has deposed as PW-2 before the learned tribunal. He has stated that the vehicle in question was being run for 'ferrying passengers', though admittedly there is no such permit etc., on record. The appellant, at the time of the accident was serving as a cook in the Armed Forces and was posted at Pune. Learned counsel for the appellant is unable to deny that there is indeed no valuation by any expert or surveyor in respect to the damage claimed to have been caused to the vehicle in question. In fact, there is not even a photograph of the said vehicle on record. Reliance is sought to be placed on the bills Ex.P-2 to Ex.P-5 to indicate the expenses incurred.

I have gone through the said bills, but it is undeniable that the appellant has been unable to connect the same to the damage caused to the vehicle in question. The appellant has not been able to link the expenditure as reflected in the bills Ex.P-2 to Ex.P-5 with the damage to the Toyota Qualis, which may have been caused in the accident in question. Learned tribunal has rightly noticed that in the bill, Ex.P-3, there is an insertion of amount of ₹4000/- with a pen of different ink. There is cutting and overwriting in the amount Ex.P-4 and undeniably the claimant has not examined even the person, who has issued the said bills. Therefore, the appellant in this case has indeed failed to prove his case on the touchstone of preponderance of probabilities.

Learned counsel for the appellant is unable to point out any illegality or infirmity in the impugned award dated 18.11.2015, passed by

the learned tribunal, Panchkula, which calls for interference by this Court, at the instance of the appellant.

There is a delay of 2 days in filing and 16 days in re-filing of this appeal. Keeping in view the fact that the matter has been adjudicated on merits, question of delay in filing and re-filing of this appeal is rendered academic. Applications are accordingly disposed of.

No other argument has been raised.

Appeal is accordingly dismissed with no order as to costs.

23.09.2019
s.khan

[LISA GILL]
Judge

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