

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

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FAO-5413-2016 (O&M)

Date of decision: 19.03.2019

SUNIL KUMAR

... Appellant

Versus

NEB CHAND AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sushil Bhardwaj, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against order dated 25.04.2016 passed by the Motor Accidents Claims Tribunal, Karnal whereby application for grant of compensation on account of damage to Innova car No. CH-01-AM-9119 in a motor vehicular accident that took place on 22.05.2013, has been dismissed.

Counsel for the appellant would argue that driver of offending truck bearing No.HP-12-D-5995 namely Neb Chand faced criminal proceedings in regard to the occurrence. Neb Chand did not appear in the witness box to counter testimony of Balwinder Singh, an eyewitness to the occurrence, therefore, an adverse inference is liable to be drawn against respondents before the Tribunal for non-examination of driver of the offending vehicle.

The Tribunal, on detailed discussion of materials on record particularly contents of FIR Ex.P15 registered at the instance of driver of alleged damaged car and testimony of the star witness PW3, has answered issues No.1 and 2 against the claimant with the findings that accident took place on account of negligence of driver of innova car and not on account of negligence of truck No.HP-12-D-5995. Counsel for the appellant, in response to a pointed query, would fairly inform that nothing has been elicited in the testimony of PW3 if he was maintaining a safe distance from the truck going ahead or what precautions were taken by him to avoid collision between the truck and innova car after seeing that the driver of truck had applied sudden brakes. In the given circumstances, I do not find

any reason to differ with findings of the Tribunal holding against the appellant that rashness and negligence in causing the accident cannot be attributed to driver of the offending vehicle. In this view of the matter, the appellant cannot derive any advantage to his contention from registration of FIR against driver of the alleged offending vehicle or his failure to appear in the Court to counter testimony of PW3.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

19.03.2019

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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No