

FAO No.8923 of 2014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8923 of 2014

Date of decision: 19.09.2019

Billu Masih

.....Appellant

versus

Suresh Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Himanshu Dhakla, Advocate,
for Mr. Vikram Singh, Advocate, for the appellant.
Ms. Rahish Pahwa, Advocate, for respondents No.1 and 2.
Mr. Vinod Gupta, Advocate, for respondent No.3.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, appellant-claimant has sought award of compensation, setting aside impugned award dated 22.08.2014, whereby his claim petition under Section 166 of the Motor Vehicles Act (in short 'the Act') was dismissed by the Motor Accident Claims Tribunal, Panipat (in short 'the Tribunal').

According to the appellant, in the evening of 28.01.2012, he driving his motorcycle bearing registration No.HR-60B-0322 when reached near G.T. Road, Khalila turn, offending vehicle bearing registration No.DL3CA4-1419 driven by respondent No.1 in a rash and negligent manner coming from opposite side directly struck against his motorcycle. As a result thereof, appellant-claimant fell down on the road receiving multiple grievous injuries. His motorcycle also got damaged. He was shifted to General Hospital, Panipat, from where he was further referred to Chhabra Hospital, Panipat. FIR No.53 dated 29.01.2012 on his statement in Chhabra Hospital, Panipat, was registered under Sections 279, 337 and 338

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IPC at Police Station Samalkha, Panipat.

With these broad submissions, appellant-claimant filed claim petition under Section 166 of the Act on account of injuries sustained by him in aforesaid roadside accident.

The Tribunal after holding trial, dismissed the claim petition vide impugned award dated 22.08.2014.

Learned counsel for the appellant *inter alia* contends that in a roadside accident case, an injured cannot be expected to jot down number of the offending vehicle. There is difference of only one digit in registration number of the offending vehicle bearing registration No.DL3CAY-1419, which was inadvertently mentioned as DL3CA4-1419 in the claim petition. Statement of appellant-claimant as PW1 that he had received multiple grievous injuries in a roadside accident caused by vehicle bearing registration No.DL3CAY-1419 has gone un rebutted. Therefore, the Tribunal relying upon the statement of appellant-claimant, ought to have granted compensation to the appellant-claimant accepting his claim petition.

Learned counsel for the respondents, refuting above submissions, pleaded the legality and validity of the impugned award, submitting that appellant-claimant was not sure as to from which vehicle out of the two vehicles bearing registration Nos.DL3CA4-1419 and DL3CAY-1419 had caused accident, resulting into multiple injuries to him. In support of his contentions, learned counsel relied upon judgment of Orissa High Court in ***I.C.I.C.I. Lombard General Insurance Company v. Sishula Dei***, 2014(23) R.C.R.(Civil) 801.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit for the

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reasons to follow.

According to pleading of the appellant-claimant, he had received injuries in a roadside accident occurred due to negligence of vehicle bearing registration No.DL3CA4-1419. Contrary to it, while appearing as PW1 in the witness box, he testified different registration number of offending vehicle as DL3CAY-1419, which caused the accident, resulting into multiple injuries to him. Thus, it is apparent on the record that appellant himself was not sure as to which of the above vehicles had hit his motorcycle. Contents of his claim petition were duly corroborated by final report under Section 173 Cr.P.C. (Ex.P21). Therefore, statement of the appellant-claimant contrary to his pleadings, disclosing altogether different registration number has rightly been discarded. That apart, the Tribunal has dismissed claim petition of the appellant on the ground that he also could not prove that he had received injuries in a roadside accident caused by vehicle No.DL3CA4-1419 or DL3CAY-1419.

I have gone through impugned award and find no illegality or perversity in the same.

Facts and circumstances of the authority referred to above by learned counsel for the appellant are not identical to the facts of the present case. Therefore, no benefit of the same can be given to the appellant.

Dismissed.

(Ramendra Jain)
Judge

September 19, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No