

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 9466 of 2014(O&M)

Date of Decision: December 06 , 2019.

Parkash

..... APPELLANT (s)

Versus

Gurvinder Singh

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. S.S.Kamboj, Advocate
for the appellant.

Mr. J.S.Randhawa, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimant challenging award dated 24.04.2013 passed by the learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as, the 'Tribunal').

The claimant is aggrieved of dismissal of his claim petition preferred under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of injuries and permanent disability stated to be suffered by him in a motor vehicle accident on 22.02.2011. It is pleaded that the appellant alongwith

other persons being members of a marriage party, had gone to attend the marriage of Kalu son of Ram Dass, resident of village Khoi. They were returning after the marriage ceremony on a bus bearing registration No.HR-68A-2205, which was driven by its driver, Gurvinder Singh in a rash and negligent manner. The driver lost control over the bus due to which, the bus fell in a deep ditch. FIR No.37 dated 23.02.2011 was registered in respect to the accident. It is claimed that the appellant suffered fracture of two ribs as well as backside of the shoulder and neck. He is stated to have been admitted in General Hospital, Sector 6, Panchkula from 22.02.2011 to 26.02.2011. Thereafter, he was referred to Civil Hospital, Kalka wherein he remained admitted from 26.02.2011 to 29.02.2011 and he also took treatment from Anil Sharma Hospital, Housing Board Colony, Kalka. It is further pleaded that at the time of the accident he was working with the Tax International Pvt. Ltd., village Khadian Kamli, Parwani, getting a monthly salary of ₹5,000/-. He spent more than ₹60,000/- on his treatment. Compensation of ₹10,00,000/- was, thus, claimed on account of permanent disability, injuries, pain and suffering etc.

The claim petition was resisted by the respondent i.e., driver and owner of the bus, which is admittedly not insured. It is denied by the respondent that any accident had ever taken place with bus No.HR-68A-2205, wherein the claimant received injuries as stated by him.

Learned Tribunal on considering the evidence on record dismissed the claim petition while concluding that the claimant has failed to prove that he had received any injury/suffered any disability due to the rash and negligent driving of bus bearing registration No.HR-68A-2205 as alleged.

Aggrieved therefrom, this appeal has been filed.

Learned counsel for the appellant vehemently argues that the learned Tribunal has grossly erred in dismissing the claim petition filed by the appellant. It is contended that in matters like the present, the claimant is only to prove his case on the basis of preponderance of probabilities and not beyond reasonable doubt. The FIR in this case was registered and that by itself, is sufficient to prove that the appellant had suffered injuries in the said accident. It is thus prayed that this appeal be allowed and compensation be awarded to the appellant.

Learned counsel for the respondent refutes the abovesaid averments and prays for upholding the impugned award as the same has been rendered after proper appreciation of the facts and evidence. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file with their assistance.

Learned counsel for the appellant is unable to deny that the FIR in question does not make any mention of the present claimant/appellant to be travelling in the said bus. No evidence has been led by the claimant to prove that he was indeed a victim of the said motor vehicle accident which took place on 22.02.2011. No evidence has been led to even prove that the marriage of Kalu son of Ram Dass was solemnized on 22.02.2011. No member of the marriage party has been examined. Even more relevant is the fact that, no document including the admission of the appellant either at General Hospital, Sector 6, Panchkula or Civil Hospital, Kalka, has been produced. There is further no evidence regarding treatment obtained by the appellant from Anil Sharma

Hospital, Housing Board Colony, Kalka. No evidence to indicate the nature of injuries suffered by the appellant is on record, neither is there an iota of evidence to indicate any disability, much less permanent disability suffered by the injured. Therefore, keeping in view the factual matrix of the case, learned Tribunal has correctly proceeded to dismiss the claim petition filed by the appellant/claimant.

No other argument has been raised.

Learned counsel for the appellants is unable to point out any illegality, infirmity or perversity in the impugned award dated 24.04.2013 passed by the learned Motor Accident Claims Tribunal, Panchkula, which calls for interference by this Court.

Consequently, this appeal is dismissed with no order as to cost.

December 06 , 2019.
'om'

(LISA GILL)
JUDGE

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