

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.2227 of 2017 (O&M)

Date of Decision:29.01.2019

Narain Singh

...Appellant(s)

Versus

Pargat Singh and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Harish Goyal, Advocate for the appellant.

ANIL KSHETARPAL, J.

Respondent No.1 in the claim petition (driver and owner of vehicle bearing Registration No. PB-11AD-4332) is in appeal against the judgment passed by the Motor Accident Claims Tribunal, (for short the Tribunal).

Learned counsel for the appellant has submitted that as per First Information Report and claim petition, three vehicles were involved in an accident and in absence of evidence to the contrary, the Tribunal erred in absolving vehicle bearing Registration No.HR-20A-0473.

The learned Tribunal, after appreciating the evidence, has recorded finding, which is extracted as under:-

“Onus to prove issue no.1 is on the claimant. Claimant Pargat Singh has appeared in the witness box as CW1 and he tendered his affidavit Ex.CW1/A on the file in which he stated that the accident took place due to rash and negligent driving of Narain Singh and Ranjit Singh. However, Narain Singh who appeared as RW2 stated in his statement that he was not present at the spot and a false FIR was registered against him. Ranjit Singh who was driving truck bearing no.HR-20A-0473

appeared as RW1 and he stated that accident took place due to rash and negligent driving of Narain Singh and not due to his negligence. The police has got registered FIR no.215 dated 16.12.2015 under sections 279,337 and 427 of IPC (Ex.C53) on the statement of Balkar Singh son of Mewa Singh. The perusal of the said FIR shows that accident took place due to rash and negligent driving of Narain Singh. There was no fault of Ranjit Singh who was driving truck no.HR-20A-0473 for the accident. Narain Singh has stated in his affidavit that he has been falsely implicated in the present case and he moved application to the higher police officials. Enquiry was pending regarding his false implication but no evidence was led by Narain Singh to prove that the enquiry regarding his false implication was pending before the higher authorities. Mere oral assertion regarding the same cannot be believed. There is no evidence on the file to disbelieve the statement of Ranjit Singh RW1 that the accident took place due to rash and negligent driving of Narain Singh. His statement is corroborated by the FIR which was got registered by the police. The claimant while appearing as CW1 stated that both the drivers were negligent in driving their vehicles when the accident took place. He did not move any application that the SHO got registered FIR on wrong facts. Balkar Singh author of the FIR was not got examined by the claimant to prove that correct version was not recorded. It seems that the vehicle driven by Narain Singh was not insured with any insurance company, therefore, the claimant stated that the accident took place due to rash and negligent driving of both the vehicles. The said version of the claimant cannot be believed. Therefore, this tribunal is of the considered opinion that the accident took place due to rash and negligent driving of respondent no.1. Therefore, issue no.1 is decided partly in favour of claimant and partly against him.”

Learned counsel for the appellant has contended that once in

the FIR, it was mentioned by the claimant-injured that two vehicles were involved, therefore, the learned Tribunal committed an error in absolving owner and driver of vehicle bearing Registration No.HR-20A-0473. He has further submitted that except the assertions made in the petition, no evidence has been produced that it was the appellant who was rash and negligent.

This Court has considered the submissions, however, find no substance therein.

No doubt in the FIR, the claimant had stated that first of all it was the vehicle in which claimant was travelling and hit by vehicle of the appellant. It was thereafter vehicle bearing Registration No.HR-20A-0473 which had hit the vehicle in which claimant was travelling. In the present case, both the drivers have been examined. Learned Tribunal has found the evidence of driver of vehicle bearing Registration No. HR-20A-0473 to be more reliable. The statement in FIR is based upon the information given by the author of the FIR. Such FIR cannot be taken as last word on the facts of the case. The Tribunal had to decide the case on the basis of evidence led before it. Still further, even police after investigation has found that driver of vehicle bearing Registration No.HR-20A-0473 is not at fault rather it is the appellant who is at fault and a criminal case is pending against him.

Further the claimant in the claim petition as well as while appearing as CW1, has specifically stated that the accident took place due to rash and negligent driving of Narain Singh-appellant. No doubt, he has also named Ranjit Singh (driver of vehicle bearing Registration No.HR-20A-0473) but the learned Tribunal after appreciation of evidence has found that Ranjit Singh is not at fault. Once the learned Tribunal, on appreciation of

evidence, has found that it is the appellant who is at fault, this Court in exercise of appellate jurisdiction, do not find any reason to interfere in the well reasoned award. Still further, learned counsel for the appellant although made sincere attempt but could not establish that there is any incorrect appreciation of evidence by the learned Tribunal.

Learned counsel for the appellant has further submitted that merely because it has been written in the complaint as well as stated in the evidence that it is the appellant, who was rash and negligent and driving the vehicle at a high speed that would not be sufficient evidence. He further submits that in absence of any evidence, no finding could be returned.

The argument of learned counsel is erroneous. The claimant/injured has appeared in evidence and has specifically stated that the appellant was rash and negligent and driving the vehicle at a high speed. Even police after investigation has found substance in the FIR registered by the claimant. In such circumstances, the evidence with regard to rash and negligent driving the vehicle at a high speed has been proved.

In view of the above, the appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

29.01.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No