

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6865-2018 (O&M)
Date of Decision : 04.12.2019

Ravi Kumar Appellant

VERSUS

Sandeep & others Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

...

Present: Mr. Ramender Chauhan, Advocate
for the appellant.

...

MANJARI NEHRU KAUL, J.

CM-24319-CII-2018

This is an application for condonation of delay of 41 days in
filing the present appeal.

For the reasons mentioned in the application, the delay of 41
days in filing the present appeal is condoned.

Application is allowed.

FAO-6865-2018

The instant appeal has been preferred against the impugned
Award dated 17.04.2018 passed by the learned Motor Accident Claims
Tribunal, Bhiwani, whereby the claim petition of the appellant was
dismissed in its entirety.

Brief facts of the case are that on 27.01.2015 at about 08:15
P.M. while the claimant-appellant was riding back to his house on
motorcycle bearing registration No. HR-16L-8937, respondent No.1-

Sandeep came riding motorcycle bearing registration No. HR-16N-4014 i.e.

the offending vehicle in a rash and negligent manner and struck against the motorcycle of the claimant-appellant as a result of which he suffered simple as well as grievous injuries. The passersby shifted the claimant-appellant to General Hospital Bhiwani from where he was referred to PGIMS Rohtak. Thereafter, he was shifted to Sarvodaya Hospital Hisar. The claimant's father Sunil Kumar (PW1) got registered FIR No. 117 dated 18.02.2015 (Ex.P1) wherein the name of the offending driver was mentioned as Pardeep (Sanwaria) and registration number of the offending vehicle as HR-16N-4010. The claimant-appellant remained admitted at Sarvodaya Hospital Hisar from 18.01.2015 till 14.02.2015 and underwent two surgeries as well. An amount of Rs.07 lakhs was spent on his treatment, transportation, special diet etc. The claimant was doing private service and drawing a salary of Rs.12,000/- per month besides earning Rs.50,000/- by sale of milk. He claimed that on account of the accident he had been permanently disabled and therefore suffered loss of income. Hence, he claimed compensation of Rs.50 lakhs along with interest at the rate of 24% per annum from the date of accident till its realisation.

Respondent No.1, the driver of the offending vehicle, and respondent No.2, owner of the offending vehicle, *inter alia* denied the accident in their joint written statement filed before the Tribunal and alleged that respondent No.1 had been falsely involved in the criminal case in collusion with the police. The Insurance Company-respondent No.3 also denied the factum of the offending vehicle having been involved in the said accident and alleged that the petition had been filed in collusion with respondents No. 1 and 2. Besides submitting that the inordinate delay of 22 days in lodging of the FIR had gone unexplained coupled with the fact that

mentioned as HR-16N-4010 but even the name of the offending driver was mentioned as Pradeep.

On the pleadings of the parties, following issues were framed by the Tribunal:-

1. Whether the accident in question took place on 27.01.2015 due to rash and negligent driving of vehicle motorcycle bearing registration No. HR-16N-4014 being driven by respondent No.1, causing injuries to Ravi Kumar son of Sh. Sunil Kumar? OPP
2. If issue No.1 is proved, whether the claimant is entitled to compensation, if so, what amount and from whom? OPP
3. Whether the petition is not maintainable in the present form? OPR
4. Whether the petition is bad for non-joinder of necessary parties? OPR
5. Whether the petitioner has neither any locus standi and nor any cause of action has accrued to him for filing and maintaining this petition? OPR
6. Relief.

The Tribunal on appraisal of the evidence led decided issue No.1 against the claimant by holding that the claimant had failed to connect respondent No.1 and offending vehicle i.e. motorcycle No. HR-16N-4014 with the accident in question. Issue No.2 was also decided against the claimant as he had been unable to establish that the injuries suffered by him in the accident had taken place due to the rash and negligent driving of the alleged offending vehicle by respondent No.1.

Heard the learned counsel and perused the impugned award.

Admittedly the delay of 22 days in lodging the FIR coupled with the fact that the registration number of the offending vehicle as well as the name of the driver of the offending vehicle was wrongly mentioned does create a big question mark about the authenticity of the version of the claimant qua the accident having actually taken place with the offending vehicle. Further, the name of the offending driver Pradeep which finds mention in the FIR (Ex.P1) and whose vehicle is mentioned as HR-16N-4010 is none else than the real brother of respondent No.1 and has been impleaded as respondent No.2 as well. It is indeed very strange that even though the claimant remained conscious throughout his hospitalization subsequent to the alleged accident however for reasons best known to him, the FIR was lodged on the statement of his father who was admittedly not an eye witness to the alleged accident in question and not on his statement and that too after a considerable period of time. Further, it is also very strange that even PW5 Dr. B.L.Bagri failed to inform the police about the admission of the claimant in his hospital as a motor vehicular accident case.

In view of the aforesaid circumstances, I do not find any ground to interfere in the well reasoned impugned Award dated 17.04.2018 passed by the learned Motor Accident Claims Tribunal, Bhiwani.

The appeal is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

04.12.2019

rupi

Note: Whether speaking/reasoned :
Whether Reportable:

Yes / No
Yes / No