

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

**FAO No.4181 of 2015 (O&M)
Date of decision: 27.2.2019**

Naved

....Appellant

Versus

Laxman and others

....Respondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Mr. Ashish Gupta, Advocate for the appellant.

B.S. Walia, J.

1. Appeal has been filed by the claimant praying for setting aside of award dated 28.04.2015 passed by the learned Motor Accidents Claims Tribunal, Mewat dismissing the claim petition filed by the appellant-claimant under Section 166 of the Motor Vehicles Act, 1988.

2. Learned counsel for the appellant contended that the award is unsustainable as the Tribunal failed to take into account that the appellant had led evidence to prove his claim, FIR had been registered against respondent No.1 regarding the accident in question, besides evidence had been led qua injuries sustained by the appellant, therefore, it stood established beyond doubt that the accident had been caused due to the rash and negligent driving of vehicle No.HR-74A-0335 by respondent No.1. Learned counsel further contended that the Tribunal brushed aside the explanation for delay in registering FIR by ignoring that talks of compromise were going on with the owner of the offending vehicle and it was only when

the compromise could not be effected that the appellant approached the authorities for registration of FIR against respondent No.1.

3. I have considered the submissions of learned counsel for the appellant.

4. The accident in question is stated to have taken place on 23.05.2014 whereas copy of MLR Ex.P-46 as referred to in paragraph No.13 of the award reflects the injured to have been admitted in hospital on 03.06.2014 i.e. after a delay of 10 days whereas FIR Ex.P-41 is recorded as having been lodged after 11 days on 04.06.2014 by the alleged eye witness i.e. father of the claimant claiming that on 23.05.2014, an unknown driver had caused the accident and thereafter run from the site of the accident. Claim before the Tribunal was that till lodging of FIR, there were talks of compromise but the same could not take place.

5. The learned Tribunal rejected the claim on the ground that the version regarding talks of compromise had been introduced just to cover the delay of 11 days in registering FIR, besides, had there been any talk of compromise, then in that event when the FIR was lodged, the claimant would have disclosed the name of the person with whom talks of compromise were going on and in case talks of compromise were going on then in that event, the name of the driver of the offending vehicle as well as name of the registered owner of the offending vehicle would obviously be known but the FIR had been lodged against an unknown driver. The learned Tribunal further observed that if the accident had taken place in the manner pleaded then after admitting the injured claimant in the hospital, the father of the appellant-claimant, namely, Yusuf who claimed to be with the claimant-appellant at the time of accident could lodge the FIR promptly but no such action was taken.

Besides, no person, who was a mediator of the alleged compromise, had been examined, therefore, it was apparent that 11 days' delay was taken up to concoct a story for roping in the vehicle of respondent Nos.1 and 2 besides it had not been established that the accident had taken place in the manner pleaded and that although delay by itself may not be treated as fatal in compensation cases but when the same is established to have been utilized for manipulation and concocting a story, then certainly, delay would be fatal in MACT cases particularly in hit and run cases where false prosecutions were being managed after tracing out insured vehicles in order to get false claims.

6. Admittedly, as per the appellant claimant, the accident occurred on 23.05.2014 whereas as per MLR Ex.P-46, the injured appellant-claimant was admitted in hospital on 03.06.2014 i.e. after a delay of 10 days while FIR Ex.P-41 was lodged after 11 days i.e. 04.06.2014 by none else than the father of the appellant-claimant of an unknown driver having caused an accident and run away. The reasoning given by the learned Tribunal for holding the claim to be a false claim by implicating an insured vehicle in order to get compensation appears to be correct for if the father of the appellant-claimant was with the appellant-claimant at the time of accident, he could have registered the FIR on the same day or shortly thereafter. Further registration of FIR after delay of 11 days against an unknown driver by taking up the stand in the FIR that in between talks of compromise were going on without mentioning the name of the person with whom the talks were going on, goes to show that the same had been mentioned just to cover up the delay of 11 days in registering FIR.

Although the accident is claimed to have taken place on 23.05.2014, MLR Ex.P-46 reflects that the injured was admitted in hospital on 03.06.2014. Except statement of Yusuf i.e. father of the claimant that he had taken his minor son to SHKM Govt. Medical College, Nalhar, Nuh Mewat where he was medico legally examined and was found to have received grievous injuries, no evidence in respect thereto has been referred to by learned counsel for the appellant nor produced to show the claimant having been examined in Govt. Medical College, Nalhar, Nuh Mewat on 23.05.2014. The injured is claimed to have been shifted to Hi-Tech Hospital, Alwar, Rajasthan but the reasons for shifting him have not been pointed out by learned counsel for the appellant. The accident allegedly having taken place on 23.05.2014, copy of MLR Ex.46 reflecting injured having been admitted in hospital on 03.06.2014 and the FIR there after having been registered on 04.06.2014 and delay in lodging FIR having been recorded by the learned Tribunal to have been sought to be explained by talks of on going compromise but a compromise not having taken place without mentioning the name of the person with whom the talks of compromise were going on goes to show that the version of talks of compromise was merely an attempt to cover up the delay. Even if the delay in registering FIR is ignored, delay in admission of the injured in hospital on 03.06.2014 i.e. after a delay of 10 days as per MLR Ex. P-46 is fatal.

7. Learned counsel has not been able to refer to any evidence to show that the injuries sustained by the appellant-claimant was on account of injuries in an accident due to rash and negligent driving by respondent No.1 and the vehicle in question on 23.05.2014.

8. Accordingly, in absence of any evidence pointed out by learned counsel for the appellant of the appellant having been taken to the Medical College, Nalhar Nuh, Mewat on the date of accident i.e. 23.05.2014, instead record having been produced mentioning the appellant to have been admitted in the hospital at Alwar on 27.05.2014 and discharged on 12.06.2014 while MLR Ex.P-46 as referred to him in paragraph No. 13 of the award reflects the injured to have been admitted in the hospital on 03.06.2014 goes to show that although the appellant received injuries but there is no evidence to connect the injuries to have been received by the appellant on account of involvement of truck driven by respondent No.1 and owned by respondent No.2 in accident on 23.05.2014, in the manner as alleged by the appellant/claimant.

9. In the light of the position as noted above, no circumstances exist warranting interference with the well reasoned award passed by the Motor Accidents Claims Tribunal, Mewat. Accordingly, the appeal being bereft of merit is dismissed in limine.

February 27, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No