

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-10671-2018

Date of Decision : 05.12.2019

Sunil KumarAppellant

VERSUS

Gurpreet Singh and others..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Ms. Janya Sirohi, Advocate for
Mr. Akshay Jindal, Advocate
for the appellant.

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MANJARI NEHRU KAUL, J.

The appellant has challenged the dismissal of the claim petition under Sections 166, 140 and 141 of the Motor Vehicles Act, 1988 vide order dated 29.08.2018 passed by the Motor Accident Claims Tribunal, Kurukshetra.

It was pleaded in the claim petition filed by the appellant that on 20.10.2014 while he was going to Ismailabad in his Super ACE bearing registration No. HR-65-8488 on the correct left side of the road, at about 7:40 P.M. respondent No.1, driver of the offending vehicle bearing registration No. HP-12F-8311, came rashly and negligently and hit the vehicle of the claimant from its right side as a result of which the claimant fell down and received multiple serious and grievous injuries on various parts of his body including fractures. It was pleaded that the accident was

Kurukshetra from where the appellant was referred to PGI Chandigarh for treatment. It was also pleaded that respondent No.1 was challaned by the police at Police Station Ismailabad under Sections 279, 337, 338 IPC vide FIR No. 131 dated 24.10.2014. The appellant claimed that due to the injuries sustained by him in the accident he had to be got treated firstly from LNJP Hospital Kurukshetra and thereafter from PGI Chandigarh. He spent Rs.02 lakhs on his treatment, transportation, special diet, payment of medical bills etc.

In the written statement filed by respondent No.1 i.e. the driver of the offending truck, he categorically denied the accident and submitted that he had been falsely implicated in the said accident by the claimant-appellant in collusion with the police. It was also submitted that the FIR which had been registered after a delay of 04 days from the date of the alleged accident was a false one. Respondent No.2 i.e. the owner of the offending vehicle was proceeded against ex-parte by the Tribunal. Respondent No.3-Insurance company in its written statement also submitted that no such alleged accident had ever taken place and a false and fabricated claim petition had in fact been filed by the appellant in order to extract money from the answering respondents.

From the pleadings of the parties, following issues were framed:-

1. Whether the accident in question had taken place due to rash and negligent driving of the vehicle bearing registration No. HP-12F-8311 by the respondent No.1? OPP
2. Whether the injured-claimant Sunil Kumar had suffered injuries in the above mentioned accident, if so, whether he is

entitled to a compensation of Rs.20,00,000/- from the respondent? OPP

3. Whether there was violation of the terms and conditions of the insurance policy, if so its effect? OPR.

4. Relief.

In support of his case the appellant examined himself as PW4 besides examining five other witnesses and tendering all other relevant documents.

On the other hand, the Insurance Company examined three witnesses besides tendering other relevant documents.

Heard the learned counsel and perused all the evidence on record.

It cannot be disputed that the FIR in question was lodged by Sunil Kumar-Claimant after a delay of more than 04 days from the date of the alleged accident. A perusal of the contents of the FIR (Ex.P3) reveals that after the alleged accident the offending truck had fled away from the spot and it was only later on that it came to light that the registration number of the truck was HP-12F-8311 which was being driven by Gurpreet Singh i.e. respondent No.1. It is thus evident that when the accident in question occurred the appellant had not seen the registration number of the offending truck. Not only this, the claimant-appellant while deposing as PW4 deposed that the accident in question was witnessed by Sarwan and it was Sarwan who had got him admitted in the hospital at Kurukshetra. For reasons very strange, none of these facts are detailed in the FIR which was got registered by the claimant-Sunil Kumar. The least that the claimant could have done was to examine the eye-witness Sarwan in support of his

case to prove the factum of truck bearing registration No. HP-12F-8311 being involved in the said accident. Further it has been contended that the delay in lodging FIR was due to talks of compromise which were going on between the claimant and owner of the truck who had met him a day prior to the registration of FIR. However, this is contradictory to his own stand that he was conscious at the time of accident but had lost consciousness later on and regained consciousness on the 24th October, 2014. If that be the case then it is strange as to how he could have been talking with the owner of the offending truck for compromise prior to 24.10.2014. The delay in lodging of the FIR thus does create a serious doubt about the authenticity of the version of the claimant.

In view of the above, I do not find any ground to interfere in the well reasoned impugned order dated 29.08.2018 passed by the Motor Accident Claims Tribunal, Kurukshetra.

The appeal is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

05.12.2019

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Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No