

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

**FAO No.2789 of 1998
Date of Decision: 25.01.2023**

Satish Kumar

.....Appellant

Versus

Inder Singh and others

.....Respondents

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. S.S. Dinarpur, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. Vikas Sharma, Advocate appearing for
Mr. R.K. Bashamboo, Advocate
for respondent No.3.

MEENAKSHI I. MEHTA, J

Feeling aggrieved and dis-satisfied with the Award passed by learned Motor Accident Claims Tribunal, Kaithal (for short 'the Tribunal') on 15.10.1998, whereby the claim petition moved by the appellant-claimant (here-in-after to be referred as 'the claimant') for seeking compensation on account of the injuries suffered by him in a motor vehicular accident, has been dismissed, he (claimant) has preferred the instant appeal.

2. Shorn and short of unnecessary details, the facts leading to the filing of the present appeal, are that the claimant filed a petition against the respondents, the respective driver, owner and insurer of the Tempo bearing

registration No.HR-32-0540 (for short 'the offending vehicle'), for seeking compensation of Rs.2,70,000/-, while averring that on 02.12.1992, he was going to Cheeka from Kaithal in his Car having registration No.HR-09-8787. When he reached near Village Khanpur, the offending vehicle, which was being driven by respondent No.1 in a rash and negligent manner, came from the opposite direction and it collided with his Car and resultantly, he sustained multiple grievous injuries in this accident.

3. As mentioned in the impugned Award, respondent No.2 had been proceeded against *ex-parte* before the Tribunal. Respondents No.1 and 3 filed their separate written-statements contesting the claim, as put-forth by the claimant in his petition, on various grounds. Thereafter, the Tribunal put the parties to the trial by framing the issues on 28.04.1994. After appreciating and evaluating the evidence as led by the parties on the record and hearing their learned counsel, the Tribunal passed the impugned Award, dismissing the claim petition moved by the petitioner, as already discussed in the opening para of this judgment.

4. I have heard learned counsel for the appellant-claimant as well as learned counsel appearing for respondent No.3-Insurance Company in this appeal and have also perused the file carefully.

5. Learned counsel for the claimant contends that the above-said accident had taken place solely due to the rashness and negligence on the part of respondent No.1 in driving the offending vehicle and the claimant had suffered multiple grievous injuries in this accident but the Tribunal has wrongly dismissed his claim petition and therefore, the impugned Award is

not legally sustainable and deserves to be set aside and the claimant is entitled to the compensation, as sought by him in the claim petition.

6. Per contra, learned counsel appearing for respondent No.3- Insurance Company argues that the claimant himself had reported to the Police that the afore-said accident had taken place due to the foggy weather and that none was at fault for the same but later-on, he has filed the claim petition alleging therein that the rash and negligent driving of the offending vehicle by respondent No.1 had resulted in the said accident and hence, the Tribunal has rightly dismissed the said petition.

7. The Tribunal has specifically observed in paras No.9 and 10 in the impugned Award that in Exhibit R-3, i.e the copy of Report No.9 dated 02.12.1992 as recorded by the Police immediately after the above-referred accident took place, the claimant had admitted/stated that this accident had taken place due to heavy fog and not on account of the fault on the part of the driver of the offending vehicle and in view of this version/statement, the Police had closed the further investigation in the case. However, in his claim petition, the claimant has taken a somersault by setting-forth an entirely different version to the effect that the said accident had taken place due to the rashness and negligence of respondent No.1 while driving the offending vehicle. There is nothing on the file to plausibly explain/justify the afore-discussed change in his (claimant's) earlier version regarding respondent No.1 not being responsible for the above-said accident.

8. In view of the fore-going discussion, it follows that the impugned Award does not suffer from any illegality, infirmity, irregularity

or perversity so as to call for any interference by this Court. Resultantly, the appeal in hand, being *sans* any merit, stands dismissed.

January 25, 2023
pooja

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>