

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

**FAO-115-1992 (O&M)  
Date of Decision: 02.09.2022**

**UNION OF INDIA**

..... Appellant

*Versus*

**SATISH GUPTA**

..... Respondent

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. Deepak Malhotra, Advocate for the appellant.  
None for the respondent.

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**JAGMOHAN BANSAL, J. (Oral)**

1. The appellant-Union of India through instant appeal is seeking quashing of order dated 09.09.1991 passed by Motor Accident Claims Tribunal, Hissar (for short 'Tribunal'), whereby learned Tribunal has awarded a sum of Rs.1,90,000/- as compensation on account of accident.

2. The brief facts emerging from record are that on 03.05.1989, the respondent was going towards Urban Estate, Hissar i.e. Delhi side, from city side Hissar, while driving a car bearing No. CH-5940. The respondent met with an accident with heavy truck bearing No. PUE 9241 of B.S.F which was being driven by Gurdeep Singh. The truck was coming from opposite side.

3. Learned Tribunal on the basis of pleadings framed following issues:-

1. Whether the petitioner received the injuries because of rash and negligent driving at the hands of the respondent-driver. If so, to what effect? OPP.
2. If issue No.1 is proved to what amount of

compensation the claimant is entitled to and from whom?

OPP.

3. Relief.

4. Learned Tribunal *qua* issue No.1 concluded as below.

*“The version of the respondents to the effect that it is the petitioner who dashed his car while coming on the right side of the road because a cow had come in front of the car and in order to save the said car, the petitioner brought his car to the right side and since he could not control the car, he dashed against the offending truck, cannot be believed. In support of this version the driver of the offending truck Gurdeep Singh and inspector Umed Singh have appeared in the witness box. They being the officials of the BSF are interested persons and therefore, their deposition suffers with this flaw and cannot be given much evidentiary value when there are no reasons to discard the credible and trustworthy evidence led by the petitioner.*

*HC Shiv Kumar who visited the place of occurrence immediately after the accident also did not conduct fair investigation. He did not even register a case and rather recorded the statement of one-Jugal Kishore Gupta, elder brother of the petitioner to the effect that Sh. Jugal Kishore stated before the police that his brother Satish Gupta had told him that there was no fault of the driver of the offending truck. After recording the statements of Sh. Jugal Kishore and Inspector Umed Singh, he recorded the report in the Roznamcha, a copy of the same is Ex.R1 to the effect that it was an accident by chance without any fault of any body. In this respect I would like to say that Sh. Jugal Kishore Gupta was not an eye witness of the accident and therefore, his statement ex.R3 recorded by HC Shiv Kumar was nothing but based on hear-say and cannot be attached any evidentiary value. Admittedly Jugal Kishore did not witness the occurrence and therefore, how a conclusion could be drawn on his statement that case was at fault in the accident and that it was a chance accident. No finding can be recorded on a statement based on here say. Holding these views I have relief upon the authority Sant Kumar and others Vs. Nazir Singh and others 1987-IP.LR. 92. It is unfortunate that HC Shiv Kumar did not think it proper to record the statement of petitioner/injured. HC Shiv Kumar has admitted in the cross-examination that injured Satish Kumar was admitted in CMC Hospital which was situated at a distance of 100 yards from the place of occurrence but he did not visit CMC Hospital to record the statement of Dr. Satish Gupta and that he even did not verify whether Sh. Jugal Kishore had made his statement on the instruction of Dr. Satish Gupta. If this was the conduct of the police officer then how a fair investigation can be expected from him. The injured was lying admitted in a hospital so close the place of accident but still HC Shiv Kumar did not take pain to consult the injured about the cause of accident and made his satisfaction on the statement of the elder brother of Dr. Satish*

*Gupta, Sh. Jugal Kishore, whose statement was based on here-say. It clearly given an inference that the local police was in hand and gloves with the respondents and that is why no case was registered nor the injured was at all consulted as to how and in what circumstances he sustained injuries. Thus much evidentiary value cannot be attached to the statements of the witnesses of the respondent in this case in these circumstances.*

*The story of the cow also is not believable and it seems that the same has been introduced just to minimise the liability of the driver of the offending truck. The respondent Gurdeep Singh has stated in his cross-examination that he had seen the cow coming from the right side when he was at a distance of about 40/50 yards. If it was so then he should have stopped in his heavy vehicle and if he had done so there could not have been the accident. Moreover, HC Gurdeep Singh has stated that the cow had come from the right side whereas Inspector Umed Singh has stated that it had come from front side and thus the two witnesses have given all together a different direction. At any rate when the car being driven by the petitioner was extremely on its left side and the offending truck dashed with the car after going towards the right side makes it amply clear that it was the driver of the offending truck who was rash and negligent in driving the offending truck and it is on account of his rashness and negligence, the accident in question had taken place which resulted into the causing of various injuries to the petitioner Dr. Satish Gupta. Holding accordingly I decide this issue in favour of the petitioner and against the respondents.”*

5. Learned counsel for the appellant does not dispute issue *qua* quantum of compensation awarded, however, the sole argument of appellant is that there was no lapse on the part of driver of the truck and accident took place on account of negligence of the respondent.

6. Having perused record of the case and heard arguments of learned counsel for the appellant, I am of the considered view that present appeal is bereft of merits and deserves to be dismissed.

7. Learned counsel for the appellant expressed its inability to controvert the findings recorded by learned Tribunal. From the perusal of findings recorded by learned Tribunal, it appears that stand of appellant was contradictory and Tribunal has rightly held that the driver of truck was negligent and accordingly awarded compensation to the respondent. The appeal

deserves to be dismissed and accordingly dismissed.

( JAGMOHAN BANSAL )  
JUDGE

02.09.2022  
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|---------------------------|---------------|
| Whether speaking/reasoned | Yes/No        |
| <i>Whether Reportable</i> | <i>Yes/No</i> |