

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

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**FAO No.2843 of 2022
Date of Decision:-12.12.2022**

Shaurya Dubey @ Shurya

...Appellant

Versus

Sandeep Singh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashwani Arora, Advocate
for the appellant.

NIDHI GUPTA J.(Oral)

It is the case of the appellant that the learned Tribunal was incorrect in deducting 25% of the total compensation of Rs.5,68,656/- awarded to the claimant/appellant on the ground of contributory negligence vide Award dated 14.12.2021.

Learned counsel for the appellant was at great pains to demonstrate from the record of the case that it was the offending vehicle/bus which was crossing the red traffic light, which resulted into accident. However, there is no positive finding of the Tribunal in this regard; and even from the evidence/LCR referred to by the learned counsel for the appellant, it cannot be positively ascertained that it was the offending bus that was crossing the red light. It is undisputed that the claimant/appellant did not possess a valid driving license at the time of

accident. It is further the finding of the learned Tribunal that '*... had the Activa in question been driven at slow speed and in a careful manner, the accident could be avoided by claimant being driver of the Activa. To prove the site plan Ex.R6, the respondents have not examined Investigating Officer who prepared the rough site plan, thus the same does not help the respondents in any way. Since the bus was hit on the side and front side of Activa scooter was broken and accident took place at crossing, so it is concluded that the accident took place due to contributory rash and negligent driving of claimant while driving Activa bearing registration No.CH01-BJ-4800 and that of respondent No.1 while driving bus bearing registration No.PB65-AD-1203 to the extent of ration 25:75 respectively...*'

Learned counsel for the appellant has relied upon judgement of Hon'ble Supreme Court in ***Sudhir Kumar Rana vs. Surinder Singh and others*** 2008 ACJ 1834 to submit that not holding a valid driving license 'may not lead to a finding of negligence as regards the accident'.

In my respectful view, the said ruling pertains to the facts and circumstances of the case, which is not applicable to the facts and circumstances of the present case.

Learned counsel for the appellant further submits that regarding the income the claimant/appellant was a 10+2 student and his income could not have been taken as minimum wages admissible to unskilled labour at the relevant time.

It is also submitted that there is only 10% functional disability.

However, I find that these do not constitute sufficient ground to interfere in the well-reasoned and balanced Award passed by the learned

Tribunal.

Accordingly, having no merit, the present appeal is hereby dismissed.

December 12, 2022
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No