

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

253

FAO-6813-2017

Date of decision: 22.09.2022

Manoj

.....Appellant

Versus

Subhash Chand and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mahendra Singh Tewatia, Advocate
for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

This is claimants appeal against the award dated 23.05.2017 passed by learned Motor Accidents Claims Tribunal, Palwal, whereby claim petition filed by the appellant/claimant was dismissed.

Learned counsel for the appellant submits that the Tribunal erred in dismissing the claim petition of the appellant/claimant filed under Section 166 of the Motor Vehicles Act, 1988 by holding that he had failed to prove on record that the accident in question had occurred on account of rash and negligent driving of the offending vehicle bearing registration No.HR-55V-4496 driven by respondent No.1. It was submitted that no doubt there was a delay of 8 days in the lodging of the FIR in question, however, mere delay in the lodging of the FIR could not in any manner be fatal to his case and a ground for not awarding him any compensation for the injuries received by him in the accident in question. It has been submitted that it was a matter of record that the appellant remained hospitalized after the accident in question which proved that he had indeed received injuries and still further the

delay in the lodging of the FIR in question had been on account of the fact that he remained busy in getting himself medically treated. Learned counsel, thus, prayed that in the facts and circumstances, he deserved to be compensated in the sum of Rs.5 lakhs as he had suffered 25% disability in the accident in question.

I have heard learned counsel and perused the relevant material on record.

The accident in question took place on 10.04.2016 when the appellant/claimant was allegedly going on his motorcycle. The matter, however, was reported to the police on 18.04.2016 wherein the appellant/claimant alleged that the accident in question had taken place due to the rash and negligent driving of a three wheeler, whose registration number was unknown but was being driven by one Kallu, who was a resident of the appellant's village. No doubt, the appellant/claimant was unfit to make his statement on the date of accident i.e. on 10.04.2016, however, it is also a matter of record that on 15.04.2016, he stood discharged from hospital. Strangely, from 15.04.2016 to 18.04.2016, the claimant chose not to report the matter to the police. It was on 18.04.2016 that he for the first time, though, disclosed about the involvement of Kallu in the accident in question, however, at the same time failed to give the registration number of the offending three wheeler. Strangely, the appellant/claimant in his sworn affidavit Ex.PW-3/A and while stepping into the witness box as PW-3 alleged that it was respondent No.1-Subhash Chand and not Kallu, who was responsible for the accident in question as he was driving the offending vehicle in a rash and negligent manner. Not only

this, he came up with an altogether new version that after the accident in question it was Kallu, to whom he had earlier attributed rash and negligent driving, who got him admitted in the hospital. As if this was not enough, during his cross-examination, the appellant/claimant also deposed that he had disclosed the registration number of the offending three wheeler and the name of its driver to his father on the day of accident itself. It is very evident that there are gaping holes in the entire length and breadth of the testimony of the appellant/claimant which without a doubt raises eye brows and leaves no manner of doubt that the involvement of the offending vehicle in the accident in question is highly suspect. This Court, therefore, has no hesitation in observing that the Tribunal did not commit any error while dismissing the claim petition filed by the appellant/claimant as he was unable to prove by way of any cogent much less reliable evidence that he had sustained injuries in the accident in question on account of the rash and negligent driving of the offending vehicle.

Accordingly, the instant appeal being devoid of any merit is dismissed.

22.09.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No