

FAO-1144-2005 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-1144-2005 (O&M)
Reserved on : 13.03.2023
Date of decision : 28.03.2023

Amrik Singh ... Appellant(s)

Versus

Darshan Singh and Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Naveen Sharma (Moudgil) for the appellant.
Mr. Rajneesh Malhotra, Advocate for respondent No.3.

ALKA SARIN, J.

The present appeal has been preferred by the injured claimant-appellant against the award dated 05.10.2004 passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'Tribunal') whereby the claim petition was dismissed.

The brief facts relevant to the present *lis* are that the injured claimant-appellant, who was 20-21 years of age at the time of the accident i.e. on 08.10.2001, was coming to his house after finishing his job along with Jarnail Singh son of Joginder Singh who was riding pillion on scooter bearing Registration No.HP-24-3910. It was the version of the injured claimant-appellant that the scooter was moving at a slow speed and when they reached near village Daroli near Mandir of Baba Balak Nath on

Nangal-Anandpur Sahib Road, then a tractor bearing Registration No.PB-16-9788 being rashly and negligently driven by respondent No.1 struck the scooter. It was further the case set up that the Police did not record the statement as per the version of the injured claimant-appellant and that he became unconscious. It was averred that the injured claimant-appellant was admitted in Parmar Nursing Home, Ropar from where he was transferred to PGIMER Chandigarh. Notice of the petition was issued. Respondent Nos.1 and 2 i.e. the driver and the owner, filed their joint written statement raising preliminary objections and denying the factum of the accident. Respondent No.3-Insurance Company also filed a separate written statement taking all the defences available. A rejoinder was filed reiterating the claim as set-up in the claim petition. On the basis of the pleadings, the following issues were framed by the Tribunal :

1. Whether Amrik Singh claimant sustained injuries in accident caused by Darshan Singh while driving tractor No. PB-16-9788 rashly and negligently ?
OPP
2. Whether claimant is entitled for compensation alongwith interest, if so from whom to what extent and what rate ? OPP
3. Whether the respondent No.1 is not holding valid and effective driving licence at the time of alleged accident ? OPR
4. Whether the claim petition is not maintainable in the present form ? OPR

5. Whether claimant has got locus standi to file the claim petition ? OPP
6. Whether claim petition is bad for non-joinder of necessary Parties ? OPR
7. Relief.

On the basis of the findings on issue No.1, the claim petition was dismissed. However, the injured claimant-appellant was held entitled to the compensation under Section 161 of the Motor Accident Act, 1988 to the tune of Rs.62,500/- along with interest @ 6% per annum from the date of filing of the claim petition till realization. Aggrieved by the said award dated 05.10.2004, the present appeal has been preferred.

Learned counsel for the injured claimant-appellant would contend that the accident took place with the offending vehicle and that the injured claimant-appellant remained admitted in hospital from 08.10.2001 to 29.11.2001. It is further the contention that due to the grievous injuries received, the injured claimant-appellant was shifted from Ropar to PGIMER Chandigarh. It is contended that the version of the accident has not rightly been recorded in the DDR dated 13.11.2001 (Ex.P1).

Per contra, learned counsel for respondent No.3-Insurance Company has contended that the injured claimant-appellant in the present case was taken to the hospital by Sukhdev Singh, Priest of Gurudwara who stepped into the witness box as RW-1 and stated that on 08.10.2001 at about 07.45 PM he along with Amarjit Singh, Darshan Singh and President of the Management - Ranbir Singh - was present when one person came to the Gurudwara that his friend had met with an accident and needed to be taken

to the hospital. He and Amarjit Singh took the injured claimant-appellant to

the hospital. It was further stated by the said witness that no accident took place with the tractor as alleged. Piara Singh stepped into the witness box as RW-2 and he also deposed that he was a member of the Gurudwara Tampur and that no accident took place with the tractor as alleged. Learned counsel has further contended that the DDR (Ex.P1) also records that due to a stray cow coming in front of the scooter, the injured claimant-appellant braked and thereafter hit the tractor. Learned counsel has further pointed out that Jarnail Singh, who is stated to be the pillion rider, was not examined and there is no reason forthcoming as to why when the accident took place on 08.10.2001, the DDR was not got recorded till 13.11.2001 though the pillion rider, Jarnail Singh, did not receive any injuries.

Heard.

In the present case there is not an iota of evidence to prove that the accident took place with the tractor in question. The DDR records a version that due to a stray cow coming in front of the scooter, brakes were applied by the injured claimant-appellant and thereafter the scooter hit the tractor in question. Though it has been argued that in the DDR the version was manipulated, however, there is no evidence on the record to fortify the said argument. Further, Jarnail Singh, who was the pillion rider of the scooter and would have been the best person to depose, did not step into the witness box. Jarnail Singh himself was not injured and there is also no reason forthcoming as to why the matter was not reported to the Police till 13.11.2001. In the absence of any evidence whatsoever, the Tribunal has rightly dismissed the claim petition. Counsel for the claimant-appellant has been unable to point out any concrete evidence on the record to dislodge the

findings recorded by the Tribunal.

In view of the above, I do not find any reason to interfere with the impugned award. The appeal, which is wholly devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

28.03.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO