

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

FAO-4006-2010 (O&M)

Reserved on: 12.05.2023

Date of pronouncement: 17.05.2023

Karamvir

...Appellant

Versus

Amar Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. J.S. Cooner, Advocate for the appellant.

Mr. D.S. Bhinder, Advocate for respondent No.2.

Mr. Vinod Chaudhri, Advocate for respondent No.3.

H.S. MADAAN, J.

Briefly stated facts of the case are that on account of suffering injuries in a motor vehicular accident, which took place on 06.10.2008 at about 7.30 a.m., in the area of Village Saha on Saha-Shahbad road within the revenue limits of Village Bihta, District Ambala statedly on account of rash and negligent driving of truck bearing registration No.HP-12-A-7356 (for brevity 'the offending truck') by respondent No.1 Amar Singh, injured Karamvir had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') against respondents i.e. Amar Singh-driver, Sanjeev Kumar-owner and the New India Assurance Company Ltd., Ambala City-insurer of the offending truck.

2. After contest by the respondents, the claim petition was dismissed by Motor Accidents Claims Tribunal, Ambala (for short 'the tribunal'), vide award dated 03.02.2010.

3. Feeling aggrieved, the claimant has approached this Court by way of filing an appeal, notice of which was given to the respondents who have put in appearance through counsel.

4. I have heard learned counsel for the parties besides going through the record.

5. To prove that he had suffered injuries in a motor vehicular accident caused due to rash and negligent driving of the offending truck by respondent No.1 Amar Singh, petitioner/claimant had got his statement recorded as PW2 and repeated on oath his case as given in the claim petition. He has proved in evidence copy of FIR No.112 dated 07.10.2008 as Ex.P18 registered against respondent No.1 Amar Singh, recovery memos Ex.P19 and Ex.P20 vide which cycle and truck were taken into possession and intimation to the police Ex.P22. In rebuttal, the respondent had tendered documents only. The tribunal by total misappraisal of evidence and wrong interpretation of law had come to the conclusion that claimant had failed to prove that he had suffered injuries in the accident which had taken place on account of rash and negligent driving of offending truck by respondent No.1. The factor which seems to have weighed heavily on the mind of the tribunal with regard to delay in reporting the matter to the police. The tribunal dealt with the case as if it was dealing with a criminal case and

not adjudicating a claim petition. The delay may be of some importance in a criminal case but not while adjudicating a claim petition under the Act, since it is a piece of welfare legislation, where strict rules of procedure and evidence are not applicable, while adjudicating such claim petition. Even if no FIR is registered with regard to the accident, in that case also, the claim petition can be accepted. Without giving any valid reason, the tribunal has disbelieved the statement of claimant appearing as PW2. FIR with regard to the accident had been registered against respondent No.1. Respondent No.1 is facing trial in the criminal case as deposed by PW1 Satinder, Addl. Ahlmad in the Court of Sh. Rahul Bishnoi, JMIC, Ambala. Respondent No.1 had not stepped into the witness box to deny that he had caused the accident by rash and negligent driving of the truck. Under the circumstances, the tribunal should have decided issued No.1 in favour of the claimant and against the respondents rather than deciding such issue against the claimant. That wrong is undone and issue is decided in favour of the claimant and against the respondents.

6. With regard to issue No.2, claimant is certainly entitled to get compensation from driver owner and insurance company of the offending truck. The question is that of quantum. As per case of the claimant, he has spent Rs.60,000/- on his treatment. He had examined PW3 Dr. Sant Ram Gupta posted at M.M. Medical College and Hospital, Mullana who had furnished his affidavit Ex.PW3/A giving the nature of injuries suffered by the injured, who was brought to the

hospital on 06.10.2008 with a history of road side accident. According to this witness, the patient remained admitted in their hospital from 06.10.2008 to 15.10.2008 on which date, he was discharged but was advised to attend surgical outdoor patient department. With hospitalization of 10 days and the cost of medicines and treatment getting prohibitive, the amount claimed by the claimant as Rs.60,000/- towards medical treatment can certainly not be taken to be on higher side. The same is granted to him. He is also entitled to get compensation under various other heads. He must have undergone pain and agony on account of suffering injuries in the accident and as a result of hospitalization, it is difficult to quantify the same but I award a sum of Rs.20,000/- under that head. A person suffering such type of injuries requires special diet for early recovery. On that account, I award a sum of Rs.15,000/-. Expenses are borne on transportation also during the period of hospitalization and follow-up. A sum of Rs.15,000/- is awarded to the claimant under that head. With serious injuries having been suffered, the claimant would have required help of some person/attendant in moving around, going to the hospital etc. A sum of Rs.10,000/- is awarded to him under that head.

7. Thus the claimant is entitled to get total compensation of Rs.1,20,000/-. The claimant would be entitled to get interest on this amount @ 7.5% p.a., from the date of filing of claim petition till actual realization. The liability to pay this amount being joint and several of all the three respondents.

8. The appeal stands allowed accordingly with costs throughout.

17.05.2023
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No