

FAO-1680-2014(O&M)

212-3

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1680-2014 (O&M)

Date of decision: March 20, 2023

Yash Pal Batra

....Appellant

versus

Amrik Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Ankush Rampal, Advocate for
Mr. Rahul Rampal, Advocate for appellant(s).Mr. Ram Avtar, Advocate
forrespondent No.3-Insurance Company.

ARUN MONGA, J. (ORAL)

Appellant before this Court is the claimant challenging impugned Award dated 26.10.2013 rendered by learned Motor Accidents Claims Tribunal, Ludhiana (for brevity, Tribunal) on account of damage to his Car, whereby the claim petition was dismissed.

2. Succinct facts, as noted by learned Tribunal, are as below:

“.....on 29.11.2010, Vikram Batra and one Raju were traveling in a Wagon-R car bearing registration no.nPB10BN-6180. When they reached near Mayur Dhaba situated at GT Road, Karnal, the respondent no.1 came driving the truck bearing registration no.HP-21A-7051. He was driving the said truck rashly and negligently. Without giving any horn and without giving any indication, the respondent no.1 turned the truck towards village Indri and struck his truck in the right side of the car of the claimant. The accident had occurred on account of rash and negligent driving of the offending vehicle by the respondent no.1. In the accident, Vikram Batra and Raju received injuries and the car of the claimant was also badly damaged. Hence, a criminal case under Sections 279, 337 etc. IPC was registered against the respondent no.1.”

3. Upon notice, respondents No.1 & 2 contested claim by filing joint written statement raising preliminary objections regarding frame, falsehood of petition and concealment of material facts. It was denied that offending vehicle

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was involved in accident in question. Other pleas of claimant were refuted. It was also denied that claimant's car was damaged or that he suffered a loss to the tune of Rs.3,00,000/-. Prayer for dismissal of claim was made.

3.1 Respondent No.3-Insurance Company filed its separate written statement taking preliminary objections regarding maintainability of petition, non/mis joinder of parties, validity of driving license of respondent No.1. Occurrence of accident in question was disputed. All other pleas of claimant were disputed. Prayer for dismissal of claim was made.

4. Learned Tribunal framed the following issues:

- “1. Whether the accident, that took place on at 9.15 p.m. on 29.11.2010 near Mayur Dhaba, Karnal, occurred due to rash and negligent driving of the truck bearing registration no.HP-21A-7051being driven by respondent no.1? OPP
2. Whether the Maruti Wagon-R Car bearing registration no.PB-10-BN-6180 got damaged in the said accident? OPP
3. Whether the claimant is entitled to recover Rs.3.00 lacs along with interest @ 24% per annum from the respondents as compensation for the said damage caused to the car, in question? OPP
4. Whether the petition is not maintainable on account of the preliminary objections raised in the written statement? OPR
5. Relief.”

5. On appraisal of record/ evidence, learned Tribunal decided issues No.1& 3 against claimant. Issue No.2 was decided in favour of claimant. Issue No.4 was decided against respondents. Consequently, claim petition was dismissed.

6. I have heard learned counsel for parties and perused the record.

7. Impugned order dated 26.10.2023 passed by learned Tribunal is premised, *inter alia*, on the following reasoning:

“15. The claimant has stated on oath as PW1 that on account of the accident in question his car was damaged and on account of the damage he has suffered a loss of Rs.3.00 lacs. In support of his claim above said, he has placed on file Ex.P3 which appears to be an estimate of the damage only. There is nothing on file to indicate as to whether the claimant has in fact got the car repaired and has spent any amount on the repair of the car. Further more, the claimant has

conceded in his cross-examination that he did not get his car painted. He also asserted that he had not got any denting painting done on his car. That in other words means that the car did not require any denting and painting despite the accident. Hence, it cannot be believed that the car was so badly damaged that it needed Rs.2.50lacs for its repair. Hence, it is doubtful that the claimant's car has infact been damaged so badly that the claimant had to suffer a loss of Rs.3.00 lacs. The issue is, therefore, decided against the claimant.”

8. Having heard arguments of learned counsels for parties, I am of the opinion that there is no room for interference in the aforesaid valid reasons recorded by learned Tribunal. Nothing substantial has been urged or shown on record to negate the reasoning recorded by the learned Tribunal for its conclusion.
9. No material irregularity in law or procedure has been committed by learned Tribunal.
10. In the premise, instant appeal is dismissed.
11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

March 20, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No