

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 3145/2016(O&M)
Date of decision:12/04/2023

Hanif

...Appellant

Vs.

Mahender Singh and others

...Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Satish Chaudhary, Advocate for the appellant.
Mr. Rohit Rattewal, Advocate for
Mr. Ashish Yadav, Advocate for respondent Nos.1 & 2.
Mr. Naveen Chopra, Advocate for respondent No.3.

NidhiGupta,J.

1. Present appeal has been filed by the injured-claimant against dismissal of his claim petition bearing MACP No.1309 of 2014 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'), by the Motor Accidents Claim Tribunal, Mewat (hereinafter referred to as 'the Tribunal') vide Award dated 07.11.2015.

2. Prayer of the appellant/claimant before the Id. Tribunal was for grant of compensation to the tune of Rs.10 lacs on account of the injuries suffered by him in a motor vehicular accident that took place on 20.08.2014 due to rash and negligent driving of three-wheeler bearing registration No.HR-55-P-6568 being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3 herein. Ld. Tribunal on appreciation of the facts, pleadings, and evidence adduced before it concluded that the appellant had "*failed to prove on record that the accident in question was*

caused by respondent no. 1 while driving the vehicle bearing registration No.HR-55-P-6568 in a rash or negligent manner.”

2(i) It is submitted by learned counsel for the appellant that the learned Tribunal was in patent error in dismissing his claim petition as the appellant had placed ample evidence on record to prove the negligence on part of respondent No.1. Even FIR No.273 dated 28.09.2014 was registered under Sections 279 & 337 of IPC. It is submitted that the appellant had also examined Constable Mahinder Singh as PW-1, and had himself appeared as PW-2, and examined one Nasru Khan as PW-3, as also produced ample documentary evidence on record in support of his case and therefore, there was no occasion for the learned Tribunal to dismiss his claim petition.

3. In response, it is submitted by the learned counsel for the respondent-Insurance Company that as per the saying of the appellant, the accident in question had allegedly taken place on 20.08.2014 whereas the FIR in respect of the accident had been lodged after a delay of 39 days on 28.09.2014. It is further submitted that perusal of the record shows that petitioner has in some places mentioned date of accident as 20.08.2014, while at other places he has mentioned date of accident as 20.09.2014. It is submitted that accordingly, there is no error in the impugned order and the present appeal deserves to be dismissed.

4. No other argument has been raised by ld. Counsel for the parties.

5. Heard ld. Counsel.

6. Perusal of the impugned order shows that the following findings have been recorded therein by the learned Tribunal:-

'The petitioner, in para No.7 & 8 of his petition has pleaded that the accident in question took place on 20.8.2014. While as per Ex-P1 first information report bearing No.273 was lodged on 28.9.2014 at Police Station Sector-55/56, Gurgaon. Thus, there is delay of 39 days in lodging the first information report. No plausible explanation has been given by the petitioner in his petition or in his affidavit Ex-PW2/A for such a long delay in lodging the first information report. No convincing evidence has been lead by the petitioner to prove that delay in lodging the first information report took place because the petitioner was busy in taking treatment. The petitioner in his affidavit Ex- PW2/A has also not stated that delay in lodging the first information report took place because he was busy in taking treatment. In such circumstances, it seems that the FIR has been lodged by the petitioner just to get compensation from the respondents.

As already mentioned, in para No.7 & 8 of his petition the date of accident has been mentioned by the petitioner as 20.8.2014. While in para No.22 of the petition, wherein brief description of the alleged accident has been mentioned, the date of occurrence has been written as 20.9.2014. Both PW2 & PW3 in their affidavits Ex-PW2/A & Ex-PW3/A, respectively, deposed that the accident in question took place on 20.9.2014. Thus, there is major contradiction in respect of date of alleged accident in the pleadings and oral evidence adduced on record by the petitioner in support of his claim. The said contradiction is fatal to the case of the petitioner.' (emphasis supplied)

7. Learned counsel for the appellant is unable to give any explanation whatsoever to countenance the abovesaid discrepancies in his case. In fact, a perusal of the Grounds of Appeal also shows that an attempt

has been made to further obfuscate the matter and mislead this Court. Said Para-5 is reproduced herein below:-

“5. That the Ld. MACT Tribunal has dismissed the claim petition solely on the ground that there is delay of 8 days in lodging the FIR since the accident took place on 20.08.2014 and the FIR was registered on dated 28.09.2014 and the matter was reported to the Police on the same day regarding the injuries suffered by the petitioner in the vehicular accident but the police did not registered the FIR on the same very date. It was shown to have been registered after a gap of 8 days. The Petitioner was not in a position to make statement before the Police since he was seriously injured and not fit to make the statement.”

8. A perusal of the above pleadings show that though it is stated by the appellant that FIR was registered after a gap of 08 days only, however, as per the own saying of the appellant, accident took place on 20.08.2014 and FIR was registered on 28.09.2014 i.e. after 39 days. Moreover, appellant has nowhere mentioned/described the ‘serious injuries’ purported to have been suffered by him due to which he was unable to register the FIR.

9. Accordingly, in view of the above findings, the appeal is hereby, **dismissed**.

10. Pending application(s), if any, also stand disposed of.

12/04/2023
ps-I

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No