

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 3603/2016 (O&M)

Date of decision: 16.05.2023.

Chhatar PalAppellant

Vs.

Rajesh and othersRespondents

FAO 3604/2016(O&M)

Attar SinghAppellant

Vs.

Rajesh and othersRespondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. SK Verma, Advocate for the appellant in both the
appeals.

Nidhi Gupta, J.

CM 12647-CII/2016

Since there is delay of 655 days in refiling the appeal,
aforesaid application has been filed seeking condonation of said delay.

2. For the reasons stated therein, the application is allowed and
delay in refiling the appeal is condoned.

3. CM 12646-CII/2016

Since there is delay of 129 days in filing the appeal, aforesaid
application has been filed seeking condonation of said delay.

4. For the reasons stated therein, the application is allowed and
delay in filing the appeal is condoned.

Main Appeals.

5. This common order shall dispose of aforesaid two appeals bearing
FAO No. 3603/2016, and FAO No. 3604/2016 as the facts and questions of
law involved in both these appeals are identical. Both appeals have been filed
by the claimants against dismissal of their claim petitions by Motor Accident

Claims Tribunal, Bhiwani, (hereinafter referred to as 'the Tribunal') vide common Award dated 3.8.2013 whereby as many as 10 claim petitions were decided/ dismissed by the Id. Tribunal. FAO 3603/2016 arises out of MACT Petition No.122 of 2010 filed by claimant/appellant Chhatar Pal; whereas FAO 3604/2016 arises out of MACT Petition No. 116/2010 filed by claimant/appellant Attar Singh.

6. For the sake of convenience parties are being referred to by their litigative status in the claim petitions.

7. Both the claim petitions were filed seeking compensation on account of injuries received by the claimants in a road side accident which took place on 25.7.2010 due to alleged rash and negligent driving of truck-tralla bearing registration No. HR-55F-6300 (as mentioned in the Memo of Parties filed before this Court), and (hereinafter referred to as 'the alleged offending vehicle') which was being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. However, Id. Tribunal on appraisal of facts, pleadings and evidence on record held that appellants were not entitled to any compensation as they had failed to prove the rash and negligent driving of the offending vehicle by respondent No.1.

8. Ld. counsel for the appellants submits that the Id. Tribunal is in patent error in dismissing the claim petitions filed by the appellants despite cogent evidence having been led by the appellants that the accident in question was caused due to the rash and negligent driving of the alleged offending vehicle by respondent No. 1. It is submitted that thus, the impugned Award is liable to be set aside.

9. No other argument has been raised.

10. Heard ld. counsel.

11. Perusal of the impugned award shows that the pursuant to the accident in question, as per FIR Ex.PA registered by the police, the number of the offending vehicle has been mentioned therein as HR-45-F-6300. Even in the claim petitions, number of the offending vehicle has been mentioned by the claimants as truck Tralla No.HR-45-F-6300. FIR in respect of the accident in question was registered on the basis of statement of appellant Chhatar Pal. However, appellant Chhatar Pal has admittedly, not stepped into the witness box, despite the fact that he was best witness. In para 25 of the impugned Award in respect of Chhatar Pal, ld. Tribunal has recorded that *“they have failed to lead any evidence in order to prove their petitions. Even they themselves did not bother to step into witness box in order to prove the injuries alleged to have been sustained by them due to the accident in question”*.

12. As regards, appeal bearing FAO 3604/2016 filed by claimant Attar Singh, ld. Tribunal in para 17 of the impugned Award has held as under:-

"17. Petition No.2 has been filed by Attar Singh claiming thereby compensation amount Rs.5 lacs on account of receiving injuries by him in the roadside accident allegedly caused by respondent No.1 on 25.7.2010 when he was riding on TATA Sumo as pillion-rider being driven by Karan Singh. In his petition, he mentioned Truck/Tralla No.HR-45F-6300 which is alleged to be the offending vehicle. In order to prove his petition, Attar Singh himself stepped into witness box as PW8 and tendered his affidavit Ex. PW8/A but his affidavit is contrary to the title as well as contents of his petition because in affidavit, he mentioned the number of offending vehicle as HR-55F-6300 by making correction therein which has not been attested. Therefore, having found two different numbers of

offending vehicle, the petition of petitioner Attar Singh creates doubt. Resultantly, keeping in view this aspect in mind I have carefully gone through the cross-examination of Attar Singh (PW8) wherein he deposed that he was sitting on back seat of TATA Sumo. He further deposed that he fell unconscious after accident. He deposed that he did not see the number of offending vehicle and its driver. From his cross-examination, it is very much clear that he tendered it is his affidavit in a confusion without ensuring as to who caused accident in which he sustained the bodily injuries. Rather, his statement seems to have based on hearsay evidence, which is not admissible in evidence because from his own eyes, he did not see the driver of the offending vehicle, nor he pleaded its correct number. Therefore, his solitary statement is not sufficient to connect the respondent No.1 and the alleged Tralla with the accident in question more particularly when it is different from the FIR in which Tralla number has been mentioned as HR-45F- 6300 which has been therein after due verification by the author thereof after accident. Accordingly, issue no.1 goes against the petitioner and in favour of respondents in petition No.2”.

13. Even testimony of aforementioned eyewitness Karan Singh does not inspire confidence as it has been recorded by the learned Tribunal as follows:

“However, in the instant case, the main controversy is based on the registration number of offending vehicle because in FIR, it is shown as HR-45F-6300 whereas petitioners are alleging the same to be HR-55F-6300 on the basis of statement of solitary eyewitness Karan Singh, PW5 who did not support his examination-in-chief by giving the version in his cross-examination that he did not see the registration of the offending vehicle on the spot. How he got this number,

nothing has been explained by him, nor he falsified the contents of FIR Exhibit PA. Therefore, petitioners cannot take the statement of Karan Singh to be the correct version for presuming the offending vehicle. Except his testimony, no other cogent evidence is available with the petitioners to connect truck – tralla No. HR-55F-6300 with the accident in question.”

14. Ld. counsel for the appellants is unable to controvert the above findings, or give any explanation regarding confusion in respect of the number of the offending vehicle.

15. In view of the above, finding no merit, both the appeals stand **dismissed**.

16. Pending Application(s), if any, stand disposed of.

16.05.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes/No