

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**FAO No.1814 of 2018 (O&M)
Date of Decision : 11.04.2023**

Raja Ram alias Rajesh

....Appellant

VERSUS

Gagan Jain and Another

....Respondents

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FAO No.7084 of 2018 (O&M)

Raja Ram alias Rajesh

....Appellant

VERSUS

Gagan Jain and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Balraj Gujjar, Advocate with
Ms. Prerna Malhotra, Advocate, Legal Aid Counsel
for the appellant in both the appeals.

ALKA SARIN, J. (Oral)

This order shall dispose off the above captioned two appeals preferred by the appellant against the award dated 07.09.2017 whereby the claim petitions filed by the appellant have been dismissed.

The brief facts relevant to the present *lis* are that two claim petitions were filed under Section 166 of the Motor Vehicles Act, 1988 - one for compensation to the injured and the second for compensation for the damage caused to the motorcycle as a result of the accident. In the claim petitions it was averred that on 23.05.2014 an accident took place between a Safari car bearing registration No.HR-20Z-6472 (hereinafter referred to as the 'offending vehicle') with the Hero Honda motorcycle of the appellant bearing registration No.HR-20X-1293 and a DDR No.43 dated 27.05.2014 was registered at Police Station Sadar Hisar on the statement of Raghubir

son of Ram Singh. Upon notice, the factum of the accident as averred in the claim petitions was denied. It was further stated that a false case has been registered against respondent No.1. Respondent No.2-Insurance Company also contested the claim petitions by filing a separate written statement.

On the basis of pleadings of the parties, the following issues were framed :

Claim Petition No.55 of 2014

1. Whether the accident in question causing injuries to the petitioner was occurred due to rash and negligent driving of Safari Car bearing registration No.HR-20Z-6472 by respondent No.1? OPP
2. If issue No.1 is decided in favour of the petitioner then what amount of compensation to which the petitioner is entitled and from whom? OPP
3. Whether the petition is not maintainable in the present form? OPR
4. Whether the terms and conditions of policy cover has been violated by respondent No.1 while driving the vehicle in a rash and negligent manner? OPR-2
5. Relief.

Claim Petition No.56 of 2014

1. Whether the accident in question causing damage to the motorcycle bearing registration No. HR-20X-1293 of petitioner was occurred due to rash and negligent driving of Safari Car bearing registration No.HR-20Z-6472 by respondent No.1? OPP

2. If issue No.1 is decided in favour of the petitioner then what amount of compensation to which the petitioner is entitled and from whom? OPP
3. Whether the petition is not maintainable in the present form? OPR
4. Whether the terms and conditions of policy cover has been violated by respondent No.1 while driving the vehicle in a rash and negligent manner? OPR-2
5. Relief.

The Tribunal dismissed the claim petitions on the ground that PW11, Raja Ram @ Rajesh, the appellant herein had stated in his cross-examination that he had not filed any claim for his injuries and damages of motorcycle with the Insurance Company. He had also not filed any complaint to the SSP regarding the accident. In fact, a DDR was got registered by Raghubir Singh which was stated to be correct. PW12 Raghubir Singh, the author of the DDR, also stated in his cross-examination that the DDR (Ex.P15) was correct. He further admitted that a cow suddenly came on the road and in order to save the cow the accident took place all of a sudden. He also admitted that he had mentioned in Ex.P15 (DDR) that there was no negligence of the driver of the offending vehicle and that he did not want to initiate any proceedings against the driver of the offending vehicle.

Learned counsel for the appellant would contend that no doubt a cow came in front of the car, however, because the car was being driven in a rash and negligent manner the accident took place with the motorcycle resulting in injuries to the appellant.

I have heard learned counsel for the appellant and with their able assistance have gone through the record of the Tribunal.

In the present case, besides the DDR wherein it has been stated that due to a cow suddenly coming on the road the accident took place and that there was no negligence on the part of any person, there is no other document on the record to show that the offending vehicle was being driven in a rash and negligent manner. PW11, Raja Ram @ Rajesh, the appellant himself and PW12, Raghubir Singh, the author of the DDR, had admitted the DDR (Ex.P15) to be correct. In the absence of any evidence to show that the offending vehicle was being driven in a rash and negligent manner which resulted in injuries to the appellant, the claim petitions have rightly been dismissed by the Tribunal.

In view of the above, I do not find any ground to differ from the reasoning given by the Tribunal. The present appeals, which are devoid of any merit, are accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

11.04.2023
jk

(ALKA SARIN)
JUDGE

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