

FAO-463-2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-463-2017 (O&M)

Date of decision: May 09, 2023

Sohan Singh

....Appellant

versus

Amrit Pal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Ms. Ekta Thakur, Advocate for the appellant.Mr. Sandeep Suri, Advocate
for respondent No.3-Insurance Company.

None for respondent No.2, despite service.

ARUN MONGA, J. (ORAL)

Appellant before this Court is the claimant seeking to set aside the impugned award dated 01.08.2016 rendered by learned Motor Accidents Claims Tribunal, Chandigarh (for brevity, "Tribunal") whereby claim petition filed by claimant was dismissed with costs of Rs.5,000/- to be paid to the respondents.

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

"2. The facts that formed the bedrock of the petition are that on 27.02.2015 claimant was going from the side of Sector 22, Chandigarh towards his house situated in Sector 51-B, Chandigarh, via-Kisan Bhawan chowk. At about 11.15 AM, he reached at the light point of Piccadily chowk of Sectors 22/34, Chandigarh and had stopped his car due to red light. In the meantime, respondent No.1 Amrit Pal Singh came driving his offending Innova Car bearing No. PB-01-1790 from behind, at very high speed and in rash and negligent manner and hit the car of claimant from behind. As a result of this, car of the claimant was pushed with force, resultantly hitting his car with another car, which had also stopped in front of him. Thus, back as well as rear portion of his car was totally damaged, causing a loss to the tune of Rs.1,50,000/-. FIR No. 68 dated 27.02.2015, under Sections 279, 337 and 185 of Indian Penal Code was registered with Police Station Sector 36, Chandigarh, against respondent No.1. In the end, it has been requested that a sum of Rs.1,50,000/- be awarded towards damage and Rs. 50,000/- from deprivation of the use of the said car be awarded as compensation to the petitioner."

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3. Upon notice, respondent No.1 failed to appear despite service through publication and was proceeded *ex parte* vide order dated 18.12.2015 by learned Tribunal.

3.1. Respondent No.2-Owner filed written statement and pleaded that petition lacked essential ingredients and was not maintainable in the present form. The claimant was not possessing valid and effective driving licence at the time of alleged accident. Neither any accident took place, nor any damage had been caused to the vehicle of claimant as alleged by him. A false case had been registered against respondent No.1. He (respondent No.1) was holding a valid driving licence. Further, denied any merit in the claim petition and prayed for its dismissal.

3.2. Respondent No.3-Insurance Company filed separate written statement and pleaded that respondent No.1 was not holding a valid and effective driving licence at the time of alleged accident; there was no valid and effective route permit of the offending vehicle at the time of accident; the offending vehicle was being driven in violation of the terms and conditions of the insurance policy.

3.3. On merits, it was pleaded that amount claimed by the claimant was highly exaggerated and excessive. No such accident took place with the offending car as alleged by the claimant. Defence under Section 147, 149, 157 & 170 of the Motor Vehicles Act were also taken. Rest of the pleas were denied and prayed for dismissal of the claim petition.

4. Learned Tribunal framed the following issues:

- “1. *Whether car bearing registration No. CH-01-TA-0930 got damaged in a road accident which took place on 15.02.2015 at about 11.50 AM in the area of Piccadily Light Point Sector 22/34, Chandigarh due to rash & negligent driving of Innova Car No. PB-01-1790 by its driver – respondent No.1? OPP*
2. *Whether the claimant is entitled to compensation, if so, how much and from whom? OPP*
3. *Whether respondent no.1 was not holding a valid and effective driving licence at the time of accident? OPR*
4. *Relief.”*

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5. On appraisal of record/ evidence, learned Tribunal decided issue No.1 in favour of claimant. Issue No.2 was decided against the claimant. In view of the findings given on issue No.2, it was held by learned Tribunal that issue No.3 no more survives. Consequently, claim petition filed by appellant herein was dismissed with costs of Rs.5,000/- to be paid to respondents, who were held to be dragged to unnecessary litigation.

6. Learned counsel for appellant-claimant would contend that while deciding issue No.1, learned Tribunal held that accident in question had taken place due to rash and negligent driving of respondent No.1. She would further contend that claim petition was filed on 07.03.2015 based on estimate but evidence of appellant was recorded on 23.03.2016. She would further submit that Motor Vehicles Act, 1988 being a beneficial legislation, claim petition could not have been thrown out in toto once accident in question as well as damage to the car, had been proved.

7. On the other hand, learned counsel for respondent No.3-Insurance Company opposes the appeal while supporting the impugned award stating the same to be based on cogent and well-reasoned findings.

8. I have heard learned counsel for appellant-claimant and gone through the case file.

9. Impugned award dated 01.08.2016 passed by learned Tribunal, is premised, *inter alia*, on the following reasoning:

“21. Perusal of the file would reveal that the petitioner has tried to put cart before the horse. He has preferred the present claim petition on 07.03.2015 and claimed certain amounts alleged to have spent on the repairs of the car in question bearing No.CH-01-AT-0930. When the file is perused, it would transpire that even as per the own claim of the petitioner, the said car was allegedly got repaired on 21.03.2016 and 22.03.2016. The bills Ex.P7 to Ex.P10 pertain to the said date. Meaning thereby, when the claim petition was preferred, the claimant has no cause of action to recover the amount, which was never spent by him. Otherwise also, it is clear on record that the said accident has allegedly taken place in the year 2015 and the repairs of

the car were effected almost after one year i.e. in March, 2016. It appears that the petitioner is not approaching the court with clean hands. The car in question is 2000 Model, the value of which can well be assessed while keeping up the pulse in the market. This court is of the opinion that a Maruti Wagon car pertaining to 2000 Model would not fetch anything more than Rs.50,000/- and the amount of repair which has been claimed, is Rs.1,50,000/-. It is clear on record that a false claim is being lodged, which does not satisfy the conscious of the court. Resultantly, this issue is answered against the claimant.”

10. There is nothing in the grounds of appeal to show that appellant was not in a position to get the car repaired earlier and was in the process of arranging money for the same as canvassed before me in the present proceedings. I am, therefore, unable to accept the said contention.
11. There is no room for interference in the aforesaid valid reasons recorded by learned Court below with which I am inclined to agree.
12. No material irregularity in law or procedure has been committed by learned Court below.
13. In the premise, no grounds for interference are made out.
14. Dismissed.
15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 09, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No