

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-3202-2018 (O&M)

Date of decision: 16.02.2023

Rajnesh

...Appellant

Versus

Lal Chand and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Shashikant Gupta, Advocate for the appellant.

Mr. Gopal Mittal, Advocate for respondent No.2.

H.S. MADAAN, J. (Oral)

Briefly stated facts of the case are that appellant/claimant Rajnesh had brought a claim petition under Section 166 of the Motor Vehicles Act (for short 'the Act') against Lal Chand driver cum owner and United India Insurance Company Ltd., Behror-insurer of Pickup No.HR-66A-3547 (for brevity 'offending vehicle') seeking grant of compensation on account of injuries suffered by him in a motor vehicular accident statedly caused by rash and negligent driving of offending vehicle by Lal Chand-respondent No.1.

2. On being given notice, both the respondents had appeared and offered a contest. Issues on merits were framed.

3. Parties were afforded adequate opportunities to lead evidence in support of their respective claims. Vide award dated 22.12.2017, Motor Accidents Claims Tribunal, Narnaul had dismissed the

claim petition, leaving the petitioner/claimant aggrieved and he has approached this Court by way of filing an appeal, notice of which was given to the respondents, however, only respondent No.2-insurance company has put in appearance through counsel to offer a contest.

4. I have heard learned counsel for the appellant/claimant and learned counsel for respondent No.2 besides going through the record and I find that the impugned award is not sustainable and is liable to be set aside. The tribunal while adjudicating the claim petition seems to have forgotten that it was dealing with a petition under Section 166 of the Act which is a piece of welfare legislation enacted to provide compensation to the victims of road side accidents in easy and hassle free manner. The strict rules of evidence and procedure are not applicable there. The Presiding Officer of the tribunal has decided the matter as if she was dealing with a criminal case where the prosecution is required to prove its charge against the accused beyond a shadow of reasonable doubt. The whole approach of the Presiding Officer of the tribunal was wrong and erroneous, to say the least. Some delay in lodging the FIR and name of the driver and registration number of the vehicle being not mentioned in the FIR were blown out of proportion to doubt the case of petitioner/claimant when it is a settled law that FIR is not an encyclopedia of the facts of the incident and if the facts recorded therein disclose the commission of some cognizable offence then FIR can be recorded. It is only during the investigation after registration of the FIR, the manner in which the incident took place and the identity of the person

responsible for the criminal act comes out to be there. Furthermore, after the accident, the anxiety of the injured is to get medical aid at the earliest, rather than going to the police station and lodging the report there first. Similarly the relatives and attendants of the injured are more concerned with saving life of the injured and getting medical treatment for him rather than leaving him unattended and going to the police station to report the matter there.

5. It has come on record that respondent No.1 had been booked for causing the accident by rash and negligent driving of the offending vehicle by recording formal FIR No.461 dated 26.10.2015 under Sections 279, 337, 338 IPC read with Section 181 and 192 of the Act with Police Station City Narnaul, copy Ex.PW1/A. It has also come on record that respondent No.1 had been challaned for causing this accident, copy of final report under Section 173 Cr.P.C., being proved on record as Ex.P126 and furthermore, he has been charge-sheeted by the criminal Court in that regard. Even then the Presiding Officer of the tribunal found infirmities in the case of claimant which was actually not there for the reason that the site plan was not proved in evidence, the Investigating Officer was not examined when that was not required at all. Interestingly, respondent No.1 had not got his statement recorded before the tribunal to state on oath that he had not caused the accident by rash and negligent driving of the offending vehicle, even then the Presiding Officer of the tribunal went on to decide issue No.1 against the petitioner/claimant when cogent and convincing evidence adduced by the petitioner/claimant in the form of

getting his own statement recorded as PW3 besides examining PW4 Dharminder, the other eye witness and such evidence having got un-rebutted. The tribunal was not justified in dismissing the claim petition in such a manner. Furthermore findings on issue No.1 only has been given without recording findings on the other two issues. Therefore, the appeal is accepted; the impugned award is set aside and the matter is remanded to Motor Accidents Claims Tribunal, Narnaul with a direction to decide the claim petition afresh as per law by affording opportunities to both the parties to lead evidence and then pass a fresh award.

6. Since the accident relates to the year 2015 and more than 07 years have elapsed there from, the tribunal is directed to complete the entire exercise within six months from the date of receipt of copy of this order there. The parties through counsel are directed to appear before the Tribunal on 09.03.2023.

16.02.2023
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No