

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

FAO-199-1995
Date of decision: 29.01.2024

Chaman LalAppellant
Versus
Gurvinder Singh and another Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Hitesh Kumar Sammi, Advocate for
Mr. Nand Lal Sammi, Advocate for the appellant.
None for the respondents.

AMAN CHAUDHARY, J.

1. Challenge in the appeal, filed by the claimant-appellant, is to the award dated 16.05.1994 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short 'the Tribunal') vide which his claim petition was dismissed.
2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for more than 29 years, the counsel for the appellant has no objection, if the same is decided on the basis of the available record.
3. Learned counsel for the appellant contends that the Tribunal had committed an error by not holding the driver of the three wheeler as rash and negligent in dismissing the claim petition filed by the appellant. It is proved on record that he had received multiple injuries in the accident and suffered permanent disability to the extent of 10% and thus, was entitled to compensation.
4. Heard and perused.
5. It would be apposite to refer to the findings of the Tribunal as regards the accident as well as the negligence in driving are concerned,

which read thus:

“5.The above said facts also disclose that due to the accident, one passenger died, who was sitting in the auto-rickshaw, for which claim was filed and in that claim petition, compensation has been awarded to the claimants, implying thereby that the accident took place due to the rash and negligent driving of the Maruti car by the claimant petitioner. Gurvinder Singh, who was driver of the auto rickshaw, has appeared as PW1 and has supported the above said facts. He has also produced the copy of judgment Ex.R.1. In view of these facts, I find that the accident took place due to the rash and negligent driving of the Maruti car by the claimant-petitioner. The petitioner is, therefore, not entitled to file any claim petition in view of the law laid down in the authority reported as Oriental Insurance Company Ltd Vs. Ram Kumar and another, 1991 ACJ 1091, wherein it has been held that the claim tribunal has no jurisdiction to entertain such an application, which is filed by the driver for injuries sustained due to his own actionable negligence and such an application is not maintainable. Hence, the present claim petition is not maintainable.”

6. It is apparent that the Tribunal meticulously examined the evidence and no glaring defect in the procedure or any patent error has been shown to have been committed in ignorance of law, while arriving at the conclusion aforesaid, which may have resulted in flagrant miscarriage of justice. Thus, no intervention at the hands of this Court is warranted in the finding recorded that there was no negligence on the part of the driver of the three wheeler.

7. In the overall premise and as a fall out of the above, the appeal is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

29.01.2024
Hemant

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No