

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

2024:PHHC:042166

FAO-1460-2001
Date of decision: 22.03.2024

ASHOK KUMAR BHALLA ..Appellant

Versus

M/S DEEPAK ROADWAY,AMBALA CITY & ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil K. Ahuja, Advocate
for the appellant.

Mr. Sanjiv Pabbi, Advocate
for respondent No.3.

ANIL KSHETARPAL, J(Oral)

1. The appellant before this Court is the claimant. His motor car was involved in the accident. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, which was dismissed by the Motor Accident Claims Tribunal (hereinafter referred to as the 'Tribunal') on the ground that the claimant has failed to lead documentary evidence to prove that he was owner of car bearing registration Plate No.CHK-8771.
2. It is evident that the Tribunal while deciding the issue no.1, has held that the accident took place due to rash and negligent driving of the truck, which was insured with United India Insurance Company.
3. The learned counsel representing the appellant contends that the appellant had purchased the vehicle in the year 1987 and he being employee of the State Bank of India had taken a loan from the Bank. He submits in the cross-examination of the claimant, the correctness of his deposition on this aspect of the matter was not challenged.

4. On the other hand, the learned counsel representing the respondent No.3 submits that the claimant is guilty of withholding the best evidence.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. Civil cases are required to be decided on preponderance of probabilities.

7. In this case, the claimant in the very first sentence of his deposition has stated that he is owner of the car bearing registration Plate No.CHK-8771. The correctness of the aforesaid statement is not challenged in the cross-examination. He was not given any suggestion that the aforesaid car does not belong to him.

8. In these circumstances, the correctness of the claimant's statement shall be deemed to have been admitted particularly with regard to his ownership of car bearing registration Plate No.CHK-8771.

9. However, the Tribunal has not assessed the amount of damages. The claimant has claimed that he has spent approximately Rs.25,000/- to Rs.30,000/- on transportation, however, he has not specified any amount spent by him for repair of the vehicle.

10. The amount of damages is required to be granted upon appreciation of evidence. It was the responsibility of the claimant to produce the evidence to prove the amount, he spent on repair of the vehicle.

11. Keeping in view the aforesaid facts, this Court is left with no choice but to dismiss the appeal.

12. All the pending miscellaneous applications, if any, are also disposed of.

March 22nd, 2024
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(ANIL KSHETARPAL)
JUDGE

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