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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-333-2003 (O&M)
Date of Decision: 25.10.2024

Piara Singh Appellant
Vs.

Swaran Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Vivek Suri, Advocate and
Mr. Dushyant Godara, Advocate for the appellant.

Mr. R.C. Gupta, Advocate
for respondent No.4-Insurance Company.

SANJAY VASHISTH, J.(Oral)

1. Appellant- Piara Singh, aged about 26 years, has filed the instant appeal by challenging the award dated 06.08.2002, passed by learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal'), whereby claim petition bearing MACT No.50T dated 29.08.1998 filed by the appellant/claimant for seeking compensation on account of the injuries suffered by him in the accident, has been dismissed.
2. By filing the claim petition under Section 166 of the Motor Vehicle Act, 1988 (for short, 'the Act of 1988'), claimant pleaded that on 25.04.1997 when he was working as a Second driver on the harvesting combine of respondents No. 2 and 3 (Sukhdev Singh and Jaswinder Singh) in the fields of Karnail Singh Rai in Village Suwah wala, P.S. Sadar Jalalbad for harvesting of his wheat crop, Respondent No.1- Swaran Singh-Driver was on the wheels of the harvesting Combine. Claimant was standing in the field of Sh. Karnail Singh Rai in order to check out a scheme for the proper



harvesting of the wheat crop. He was standing behind the stationary harvesting combine alongwith Gurwinder Singh and Jaswinder Singh. Suddenly, respondent NO.1 started the harvesting combine and drove in the reverse gear without blowing any horn and giving any other signal, rashly and negligently. Resultantly, it hit the claimant who sustained multiple grievous injuries on his person including abdomen and his liver was badly damaged. Initially, claimant was taken to Preet Hospital, Jalalbad for treatment, thereafter, to Ferozepur and as his situation became critical, injured was referred to Daya Nand Medical College and Hospital, Ludhiana on 26.04.1997, there he remained admitted from 26.04.1997 to 15.05.1997 and had to undergo major surgical operation.

Thus, claimant pleaded that due to rash and negligent driving of the driver of the Combine-respondent No.1 , claimant sustained serious injuries and thus prayed for compensation. Claimant also pleaded that respondent Nos. 1 to 3 had connived with the police and therefore no FIR was registered.

3. After issuance of notice to the respondents, respondents No. 2 and 3, filed the written statement, but none appeared thereafter, as such they were proceeded against ex parte. Respondent No.1 was also proceeded against ex parte. Respondent No.4-Insurance Company also filed its written statement and objected that claim petition is not maintainable. It also took a plea that respondent no.1 was not holding valid and effective Driving license. On merits, all the averments made by the claimant in the claim petition were denied by respondent No.4-Insurance Company.

4. After pleadings of the parties, learned Tribunal framed following five issues:



“1) Whether on 23.07.1997 Piara Singh received injuries due to rash and negligent driving of combine No. PB-11-H- 7204 driven by Swaran Singh, driver. If so, its effect? OPP

2.) Whether the claimant is entitled for compensation. If so at what rate and from whom? OPP

3) Whether the claimant petition is not maintainable? OPR.

4) Whether the respondent No.1 was not holding valid driving license? OPR

5) Relief.”

5. To prove the pleadings raised through the claim petition, total four witnesses appeared on behalf of the claimant i.e. Gurvinder Singh as PW1, Kuldip Singh Rahi as PW2, claimant-Piara Singh himself appeared as PW3 and Harwinder Singh as PW4. Claimant has tendered into evidence disability certificate as Ex. P79.

6. Respondent examined one witness namely, Kishan Singh, who appeared as PW-16.

7. After examining the pleadings and evidence led by the claimant and Insurance Company, learned Tribunal found that there is no connectivity between the offending vehicle i.e. Combine bearing No. PB-11-H-7204 and injuries suffered by the claimant.

8. In regard to the accident dated 25.04.1997, one DDR NO. 51 dated 01.05.1997 (Ex. R3) , was got lodged by Jit Ram, father of the claimant. He averred that when his son Piara Singh tried to alight the Combine from rear side through steps, he fell down suddenly, as a result of which he received injuries in his abdomen. Further stated that firstly, claimant was taken to



Preet Hospital, Jalalbad, thereafter to Hospital at Ferozepur and from there he was further referred to Dayanand Medical College and Hospital, Ludhiana. Also stated that these injuries were suffered accidentally and nobody is to be blamed. Thus, no action is required to be taken against anybody.

9. While concurring with the Tribunal, this Court finds that after happening of the accident, factum of the accident was never brought to the notice of any Authority such as Police etc. Even, DDR No. 51 dated 01.05.1997 (Ex. R/3) was lodged by Jit Ram-father of the Complainant, who as per the list of witnesses did not appear to depose about the manner of accident and recording of the DDR.

10. There is another aspect in regard to the happening of the accident ,that as per the factual details mentioned in the DDR ,injured was already on board and while he was alighting the Combine from rear side through steps, he fell down, however, as per the claimant's version mentioned in the claim petition, while standing in the fields of Karnail Singh Rai and planning a scheme for proper harvesting of wheat crop, respondent NO.1 suddenly started the harvesting Combine and drove it in the reverse gear without blowing any horn, which resulted in causing of the multiple grievous injuries on the person of the claimant. Thus, apart lodging of the DDR No.51 dated 01.05.1997 (Ex. R/3) at belated stage i.e. after about five days, there is factual contradiction in the manner of happening of accident.

11. While hearing the appellant, this Court also asked the counsel for the claimant to bring to the notice of the Court, any document from any of three hospitals/Medical Centres, where the injured was taken after happening of



the accident, to show the recording of the fact that claimant suffered injuries due to the use of Motor Vehicle.

Mr. Vivek Suri, Advocate appearing on behalf of the appellant could not cite any such document recording and endorsement of any such fact in any of the document including the medical record.

Thus, it could be safely concluded that the injuries have not been suffered by the claimant on account of the use of the harvesting combine which is alleged offending vehicle as detailed in the claim petition.

Even, in DDR No. 51 dated 01.05.1997(Ex. R3), registration no. of the harvesting Combine is not mentioned, needless to say that said DDR was also lodged after the period of five days.

12. There is another aspect that as per claim petition, claimant was working as second driver on the harvesting Combine of respondent Nos. 2 and 3. However, at the time of accident, said Combine was driven by respondent No.1.

To prove a prima facie case, this Court could not see any evidence has been placed on record by the claimant to establish that he was entitled for driving the harvesting Combine, having a valid driving license.

13. Mr. Vivek Suri, Advocate relied upon the judgments of this Court (Punjab & Haryana High Court), titled as '**Suresh Kumar Vs. Yamin Ali and others**', 2007(4) RCR (Civil) 584, & '**Tarwinder Singh Vs. Ishwar Chand Mittal**', 2001(3) RCR (Civil) 824, and submits that the registration of FIR in all the cases is not compulsory for proving the accident to claim compensation amount from the Tribunal.



Undoubtedly, it is a settled proposition of law that if the factum of accident is well established from the evidence independently led in the proceedings of claim petition, filed under the Act of 1988, registration of FIR cannot be a condition precedent.

However, the cited judgments are not applicable as the facts involved therein are different from facts involved in the present appeal.

Accordingly, there being no clue with the Court to reach to the conclusion that the injuries suffered by the claimant are out of the alleged incident, it has no other option but to accept the findings recorded by learned Tribunal. **Therefore, the present appeal is hereby dismissed.**

14. Pending miscellaneous application(s), if any shall also stand disposed of.

(SANJAY VASHISTH)
JUDGE

October 25, 2024
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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |