



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2268-2005 (O&M)
Date of Decision: September 24, 2024

Vipan Arora
...Appellant

VERSUS

Manjit Singh and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ramesh Sharma, Advocate
for the appellant.

Mr.Surinder Sharma, Advocate
for respondent No.2.

Mr.Harjinder Singh, Advocate
for respondent No.4.

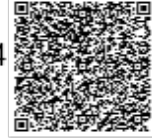
Service of respondent No.1 dispensed with and
respondent No.3-proceeded against ex parte.

ARCHANA PURI, J.

Challenge in the present appeal is to the judgment of dismissal
of claim petition, filed by appellant-claimant for seeking compensation, on
account of injuries sustained by him, in a motor vehicular accident.

The facts germane, to be noticed, are as follows:-

That, on 17.06.2001, Vipan Arora along with his wife Shalu Arora, on
his Kinetic Honda bearing registration No.PB-41-8798 had gone to Mata
Chintpurni. When they reached in the area of Mansurwal Dona near Shagun
Palace, at about 6.00 p.m., a tractor bearing registration No.PB-08AB-1897,



driven by respondent No.1, came from the side of village Mansurwal, to approach the main Jalandhar road. It was driven at a high speed and in rash and negligent manner. The tractor trolley struck against the Kinetic Scooter of Vipin Arora, as a result whereof, he had sustained injuries on his hand and even damage was caused to his scooter. The accident had taken place, due to rash and negligent driving of the tractor-trolley by respondent No.1. Thus, on account of injuries sustained, the claimant had filed the claim petition to seek compensation.

In pursuance of the notice issued, the respondents No.1 and 3 did not make appearance, despite service and they were proceeded against ex-parte. Respondent No.2 filed the written statement, whereby, the factum of accident and involvement of the tractor, as such was denied. The remaining averments were also denied. Even, respondent No.4-insurance company raised the plea that respondent No.1 was not holding valid and effective driving licence and also that the claim petition is bad for non-joinder of necessary parties and further also took the plea that the accident, if proved to have taken place, the same was on account of the negligent act of the claimant himself.

After framing of the issues, the evidence was adduced. Appellant-claimant Vipin Arora, stepped into witness box as PW-1 and his wife Shalu Arora, stepped into witness box as PW-2. Furthermore, the claimant also examined PW-3 Surinder Kumar Chopra, an eye witness to the accident in question and PW-4 Dr.Sanjiv Sabharwal. Even, certified copy of the registration certificate of the tractor was tendered into evidence as Ex.P2.

To rebut the claim of the claimants, respondents No.2 and 3,



namely Joginder Singh and Santokh Singh, had stepped into witness box as RW-1 and RW-2, respectively. Thereafter, the evidence was closed.

On appraisal of the evidence, learned Tribunal had dismissed the claim petition.

Feeling aggrieved, the appellant-claimant has filed the present appeal.

Learned counsel for the parties heard.

In order to maintain the claim petition under Section 166 of the Motor Vehicle Act, rashness and negligence, on the part of the offending vehicle is a sine qua non, for sustaining plea for grant of compensation by assessing loss of dependency. In the case in hand, appellant-claimant himself stepped into witness box as PW-1. He has deposed about having met with an accident on 17.06.2001, while he proceeded to Mata Chintpurni, on his Kinetic Honda bearing registration No.PB-41-8798 along with his wife and also, he deposed about taking place of the accident, when he reached near village Mansurwal Dona. He further categorically stated that tractor-trolley bearing registration No.PB-08B-8597, being driven by respondent No.1- Manjit Singh, struck against his scooter, as a result whereof, he sustained multiple injuries. However, the said witness had not stated even a single word, with regard to the accident, having been caused with tractor-trolley bearing registration No.PB-08AB-1897, which is his pleaded case.

Besides the claimant, even his wife Shalu Arora, stepped into witness box as PW-2. Though, she had deposed about taking place of the accident, but however, did not state the number of the offending vehicle, which struck against the Kinetic Honda of Vipan Arora. Similar is the version of PW-3



Surinder Kumar Chopra, the alleged eye witness. He had also not given the number of the alleged offending tractor trolley.

In this backdrop, it is pertinent to mention that even though, it is pleaded case of the appellant-claimant that the accident had taken place, on account of rash and negligent driving of tractor bearing No.PB-08AB-1897, but however, while in the witness box, the claimant, who was the most important witness, had stated about the accident to have caused by tractor bearing registration No.PB-08B-8597. In the given circumstances, learned Tribunal had rightly observed about the claimant, having failed to substantiate the plea of accident, having caused by the tractor bearing registration No.PB-08AB-1897.

Though, it is now submitted that respondent No.1-Manjit Singh is facing trial in a criminal case, but may it be so. No material, as such, came forth before the Tribunal about the involvement of the tractor bearing registration No.PB-08AB-1897. In fact, there is no evidence relating to involvement of this vehicle. Rather, appellant-claimant Vipin Arora, had mentioned about the accident to have caused by the tractor bearing registration No.PB-08B-8597.

In the given circumstances, the accident to have taken place, on account of rash and negligent driving of tractor bearing registration No.PB-08AB-1897, driven by respondent No.1-Manjit Singh, as such, does not stand established. Given the same, learned Tribunal had though worked upon the compensation, but precisely, on account of non-involvement of the tractor bearing registration No.PB-08AB-1897, being established, has rightly dismissed the claim petition.



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Hence, the present appeal sans merit and the same is hereby dismissed.

September 24, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No