

Neutral Citation No: 2024.PHHC.106680



FAO-3604-2005(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-3604-2005(O&M)

Decided on:20.08.2024

Krishan

.... Appellant

Versus

Karam Singh and others

.... Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Parminder Singh, Advocate for the appellant.

SANJAY VASHISTH, J.(Oral)

1. There is no representation on behalf of respondent No.3-National Insurance Company Ltd. On the asking of the Court, Mr. R.C. Gupta, Advocate appears on behalf of respondent No.3-National Insurance Company

2. Appellant-Krishan has filed the instant appeal, challenging the award dated 21.04.2005, passed by learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal'), whereby MACT case No. 50 of 2001 has been dismissed.

3. Vide order dated 07.12.2004, learned Tribunal framed the following four issues:

“ 1. Whether the accident was caused due to rash and negligent driving of truck bearing registration



No.HR29D-0133 by Karma Singh respondent No.1 causing injuries to Krishan petitioner, as alleged?OP?

2. Whether the petitioner is entitled to receive any compensation amount on account of injuries suffered by him in the accident. If so, to what amount and from whom?OPP

3. Whether the insured has violated any terms and conditions of insurance policy, as alleged. If so to what effect?OPR

4. Relief.”

Learned Tribunal decided issue No. 1 by giving its observation in paragraph Nos. 8 and 9, which is as under:

“8. The claimant also placed on the file report under Section 173 Cr.P.C Ex. P5 and site plan mark A prepared by the police during investigation of the criminal case. Perusal of report under Section 173 Cr.P.C. shows that accident had taken place on 29.01.2004, however, FIR was recorded on 30.01.2004 at 1-45 p.m. by Sube Singh driver of TAT Sumo HR-05K-6444. FIR was recorded with the details that Sube Singh while driving TATA Sumo No.HR-05K-6444 was following TATAT Sumo No. HR-05J-7974 being driven by Krishan Claimant and as he reached near W.J.C. bridge, a truck No. HR29D-0133 coming from opposite direction hit against TATA no. HR-05J-7974 which resulted into injuries to Krishan. Presence of Sube Singh appears doubtful. After the accident claimant was immediately shifted to the hospital and as per MLR Ex.3 claimant was brought to the hospital by Ranbir Singh father of the claimant. Had



Sube Singh witnessed the accident, he would have got FIR recorded on the same day and would also have shifted the injured to the hospital. He does not state about his disposal after the accident.

Perusal of MLR Ex. P3 shows that claimant was smelling alcohol at the time of his medical examination. Perusal of site plan mark A indicates the point of impact in the middle of the road. Criminal case file was summoned and perused. Photographs available on the file clearly indicates that it was the claimant who was negligent. Had respondent No.1 not diverted the truck, it would have been head on collision resulting into serious consequences. Perusal of photographs in the criminal case file though shows involvement of truck No.HR29D-0133, however, they indicates negligence on the part of claimant himself. Claimant has not examined either Sube Singh, according or any other person. Testimony of claimant, in his own favour, would certainly be of interested witness. The fact that claimant himself was smelling of alcohol and MLR Ex. P3 clearly indicates that claimant suffered simple injuries and produced evidence to make it a case of serious injuries, indicates that claimant was not fair in filing the claim petition. Moreover, claimant himself driving vehicle after consuming liquor has endangered the lives of others.

9. *Thus, from above discussion it is clear case where the claimant himself was negligent in causing the accident. Consequently issue No.1 is decided against the claimant and in favour of the respondents.”*



4. While arguing before this Court, learned counsel for the appellant submits that the appellant has suffered serious injuries due to the accident in question and said fact is well proved from the medical evidence available on record. However, in regard to the findings recorded by learned Tribunal in paragraph No.8 nothing material has been addressed or referred by the appellant to enable this Court to reverse the findings recorded by the Tribunal.

5. Undoubtedly, appellant cannot be compensated for the injuries suffered by him because of his own fault and therefore, to the view point of this Court, the claim petition has been rightly dismissed by learned Tribunal. Thus, agreeing with the observations recorded by learned Tribunal and same being reproduced hereabove, the present appeal is hereby dismissed.

20.08.2024	[SANJAY VASHISTH]
rashmi	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable?	Yes/No