



In the High Court of Punjab and Haryana at Chandigarh

[203]

FAO-680-2005
Date of Decision: 20.09.2024

ALIJAN APPELLANT

VERSUS
SHEKAT AND OTHERSRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Kamaljeep Kaur, Advocate for
Mr. Adarsh Jain, Advocate for the appellant.

Ms.Nisha Puri, Advocate for the respondent(s).

SANJAY VASHISTH, J. (ORAL)

1. The injured/claimant, namely, Alijan being appellant before this Court has filed the present appeal by challenging the Award dated 08.11.2004 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as '*the learned MACT, Gurgaon*'), whereby, the MACT Case No.122 dated 27.07.2002 was dismissed.
2. The injured/claimant *Alijan* filed a claim petition under Section 163-A and 166 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988) for grant of compensation on account of injuries sustained by him in a road accident. As per the pleaded case of the claimant/injured, he was travelling in truck bearing Registration No.*HR-38A-3525* driven by respondent No.1- Shekat. When the said truck reached in District Morena (M.P.), an electric wire was passing across the road at a very low height. Respondent No.1 asked the claimant to lift the electric wire above, so that he could pass his vehicle. Claimant asked respondent No.1 to stop the vehicle until he gives a signal to start the same. When the claimant was in the process of removing



electric wire with the help of a stick, suddenly respondent No.1 started the vehicle without there being any signal from the claimant. Resultantly, right hand of the claimant came in contact with electric cable and on account of it, he had to suffer electric current and his right leg and hand were completely burnt on account of the alleged rash and negligent act of respondent No.1.

3. The pleaded case of respondent No.1 is that the burn injury has not been suffered by the claimant as per the explanation given by him, but in actual an electric wire fell on the road suddenly and thereupon, the claimant suffered the injuries. Respondent No.3 (National Insurance Co. Ltd.), took the objection of not holding a valid driving licence by its driver at the time of the incident and also that the Court had no jurisdiction to try the claim petition.

The learned MACT, Gurgaon has framed the following issues:-

- (i) *Whether petitioner received injuries due to the use of vehicle/truck No.HR 38A-3525?*
- (ii) *If issue No.1 is proved whether petitioner is entitled for compensation. If so to what amount and from whom?*
- (iii) *Whether respondent no.1 was not holding a valid and effective driving licence at the time of alleged accident?*
- (iv) *Whether respondents 1 and 2 had contravened any terms and conditions of insurance policy as alleged?*
- (v) *Relief.*

4. To prove issue No.1, claimant/injured *Alijan* appeared himself as PW-3 and deposed before the Court and reiterated the stand, already pleaded by him in the claim petition. No police case was registered, but discharge ticket Ex.P6, which was also placed on record, is the only basic

document with which, claimant seeks little support of his version.



5. Claimant also wants to take the help of the written statement filed by respondent No.1, in which, only the manner of happening of incident is narrated differently. However, suffering of burn injuries, on account of coming into the contact with electric wire, has been admitted.

6. Unfortunately, no other evidence has been led by the claimant before the learned MACT, Gurgaon, except of his own oral deposition. The person/authority, who issued the discharge ticket (Ex.P6) or conducted the medico legal examination has also not been examined. Thus, there being no supporting evidence, learned MACT, Gurgaon was unable to accept the oral version and has thus dismissed the claim petition.

7. At the time of hearing before this Court, again the appellant/claimant has been afforded opportunity to refer or produce any document to substantiate the plea taken by him in his statement as PW-3 before the learned MACT, Gurgaon, but the appellant/claimant expresses his helpless situation.

8. It is settled proposition of law that any plea taken by the parties requires its proving by producing the relevant evidence in that regard from where such a document has emerged and especially the source of the document, from where it emerged. Mere oral statement in the Court, cannot serve any purpose for considering the claim raised by the claimant/injured.

9. Therefore, in the totality of the facts and circumstances, the findings recorded by the First Court i.e. the Motor Accident Claims Tribunal, Gurgaon, are not required to be interefered with.

10. Consequently, the appeal is hereby **dismissed**.



11. However, at last appellant argued that otherwise also, claimant/injured is entitled for compensation under Employees Compensation Act, because burn injuries were suffered during the course of employment under the control of owner of the truck.

12. Thus, liberty is granted to the appellant/claimant to file an appropriate application before any other forum, if at still available, for redressal of his grievances, as per law.

(SANJAY VASHISTH)
JUDGE

September 20, 2024

ANJAL

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