

Neutral Citation No: 2024 PHHC 108889
FAO-309-2005(O&M)



-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

FAO-309-2005(O&M)
Decided on:23.08.2024

Pawan Kumar

.... Appellant

Versus

Shyama and others

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Tajender Joshi, Advocate for the appellant
(*through video conferencing*).

Mr. Hritik Gupta, Advocate for
Mr. Amit Chaudhary, Advocate for respondent No.2.

SANJAY VASHISTH, J.(Oral)

1. Appellant-Pawan Kumar has filed the instant appeal against the award dated 31.01.2004, passed by learned Motor Accident Claims, Tribunal Bhiwani, whereby claim petition No. 65 of 10.12.1999 filed under Section 166 of the Motor Vehicles Act, 1988 has been dismissed.

While filing the claim petition, claimant/injured claimed compensation to the tune of Rs.5,00,000/- (five lacs) on account of the injuries suffered by him in a motor vehicular accident on 17.03.1999.

2. Pleaded facts in the claim petition are that on 17.03.1999 appellant/injured hired a jeep bearing No. HR-39-5671 from respondent No.2-Ram Lal (owner of the jeep) for going to Village Haluwas alongwith



his brother and other relatives for *tika* ceremony of the daughter of Kishan Lal (brother of the appellant). Respondent No.1-Shayama was driving the said jeep rashly and negligently at a high speed and when they reached near Village Bapora, Tehsil and District Bhiwani, the driver of the jeep caused the accident with a truck, which was coming from Bhiwani and was going towards Tosham. As a result of the said accident, claimant sustained grievous injuries and other occupants of the jeep also suffered minor injuries.

After the accident, occupants made another arrangement and went to attend the *tika* ceremony. Later, respondent No.1 took Appellant/injured to General Hospital, Bhiwani and after getting first aid, injured was further taken to Arora Orthopedic Hospital, Hissar. From there, the doctor sent a Ruqa to the police Station, City Bhiwani instead of Police Station Sadar Bhiwani. The appellant/injured remained admitted at Arora Orthopedic Hospital, Hissar for a period of two months and thereafter he was discharged. When Subhash Chander, brother of the petitioner went to the Police Station Sadar Bhiwani to lodge the FIR about the accident, the police official flatly refused to do so. Despite moving an application to the Superintendent of Police, Bhiwani, no action was taken.

3. In the written statement filed by respondent No.1, happening of any such accident is clearly denied and the factum of suffering of any injury by the claimant was also denied. In the written statement filed by respondent



No.2, the preliminary objection was taken that the claim petition is liable to be dismissed on account of non-impleadment of necessary party i.e. the registered owner of the jeep in question-Lachman s/o Mohan Lal @ Madan Lal, r/o Barwa, whose name was not mentioned in the array of respondents. Moreover, respondent No.2 clearly denied his connection with the offending vehicle in any manner.

4. Learned Tribunal while recording its findings in paragraph Nos.8,9 and 11 found that the appellant/claimant has failed to prove the suffering of the injuries due to the alleged accident.

5. I have heard learned counsel for the parties and also gone through the reasons assigned in the award. This Court is in agreement with the reasons given in the award because the injured/claimant has failed to establish factum of suffering of injuries sustained by him due to the alleged accident at Village Bapora, District Bhiwani involving a collision between jeep and truck. The registration number of the truck or its details were nowhere mentioned by the claimant or even by the witnesses produced by him. Further more, no one from Village Bapora has been produced as a witness to support the factual claims made in the petition.

Moreover, no explanation has been given by the claimant that why no doctor from General Hospital, Bhiwani, where initial first aid treatment was provided is not produced by him. Since, the alleged accident took place near city Bhiwani at Village Bapora and the treatment is claimed



to have been provided by Dr.Ashok Arora from Arora Orthopedic Hosptial, Hisar, it was incumbent upon the claimant to prove the happening of the accident beyond any doubt by producing some evidence regarding the damage to the Jeep and the Truck. More so, for the reason, happening of any such accident or even involvement of the offending jeep in question is clearly denied by respondents No. 1 and 2.

6. During the course of arguments, on being confronted by the Court also, learned counsel for the appellant could not refer any document to establish that the details of offending vehicle were available in any official/admitted record prior to the mentioning of same in the claim petition.

7. Agreeing with the reasons assigned in the award and also the additional reasons recorded by this Court, I do not find any reason to disturb the findings of learned Tribunal, therefore the present appeal is hereby dismissed.

23.08.2024
rashmi

Whether speaking/reasoned
Whether reportable?

[SANJAY VASHISTH]
JUDGE

Yes/No
Yes/No