

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-724-2011 (O&M)
Date of Decision : 28.02.2024

JAWAR

.... Appellant

VERSUS

ISLAM & ORS.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Manoj Kumar Sood, Advocate for the appellant.

Mr. Subhash Goyal, Advocate and
Mr. Vipul Sharma, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant challenging the award dated 22.07.2010 passed by the Motor Accident Claims Tribunal, Faridabad whereby the claim petition has been dismissed.
2. Learned counsel for the claimant-appellant would contend that though the Tribunal has assessed the compensation as Rs.75,500/-, however, the claim petition was dismissed only on the ground that there was a delay in lodging the FIR. Learned counsel would further contend that ASI Pehlad Singh who had registered the FIR on the basis of the information Ex.RX appeared in the witness box as PW-6. He further stated that he had received separate telephonic information about the accident whereupon he visited the hospital along with one Shishpal and had recorded the statement of Jawar (the claimant). Learned counsel would further contend that Ex.P-1 i.e. the Ruqa was also produced on the record however the same has been ignored by the Tribunal.

3. *Per contra*, learned counsel for respondent No.3-Insurance Company has contended that the claim petition has rightly been dismissed in view of the delay in lodging the FIR.

4. Heard.

5. In the present case the Tribunal has dismissed the claim petition only on the ground that the FIR was registered after a delay. The accident in the present case took place on 26.10.2007 and the FIR was registered on 03.11.2007. A perusal of the impugned award reveals that it has been noticed by the Tribunal that ASI Pehlad Singh had stepped into the witness box as PW-6 and stated that he had received information which was also produced on the record as Ex.RX and that he had also received a separate telephonic information about the accident, however, the Tribunal had rejected the same on the ground that had the Ruqa been actually sent by the treating doctor on 27.10.2007, there was no requirement of any communication on telephone. It was further noticed that the MLR was collected on 03.11.2007 and if any Ruqa had been sent, the same ought to have been sent with the MLR. It has also been noticed that though the FIR was registered on 03.11.2007, the accused were arrested on 12.01.2008 and that has also been taken as a ground for dismissal of the claim petition.

6. In the present case ASI Pehlad Singh has stepped into the witness box as PW-6 and had stated regarding the receipt of the Ruqa as well as the telephonic information. The Tribunal has disbelieved the statement of ASI Pehlad Singh on unsustainable grounds. Once the lodging of the FIR as well as the arrest of the accused and the fact that information

had been sent by the hospital was proved on the record, the claim petition ought to have been decided on merits. The compensation already stands assessed and the liability is also not in dispute.

7. In view of the above, the present appeal is allowed. The compensation, as determined by the Tribunal, shall be paid to the claimant-appellant along with the interest @7.5% per annum from the date of the filing of the claim petition till its realization. The award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

28.02.2024

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*