

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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FAO-3880-2012 (O&M)  
Date of Decision : 24.01.2024

BALWANT SINGH

... Petitioner

VERSUS

PARDEEP KUMAR & ORS.

... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Chand Ram Olla, Advocate for the appellant.

Mr. Rishabh Jain, Advocate for respondent No.2.

**ALKA SARIN, J. (ORAL)**

1. The present appeal has been preferred against the award dated 05.03.2012 passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by the claimant-appellant herein.

2. Learned counsel appearing on behalf of the appellant would contend that the claim petition has erroneously been dismissed and that it was amply proved on the record that the offending car bearing registration No.HR-02G/6173 was involved in the accident.

3. Learned counsel for respondent No.2 on the other hand has contended that in the first version of the accident which was recorded in DDR No.12 dated 06.06.2004 (Ex. P-36), it was stated that a cow came in front of the motorcycle and in order to save the stray cow the rider of the motorcycle, namely, Pardeep Kumar applied brakes as a result of which the motorcycle lost balance and the two pillion riders along with Pardeep Kumar fell down. However, in the claim petition, a new story was introduced

wherein car bearing registration No.HR-02G/6173 has been stated to be the offending vehicle. Learned counsel has further contended that though it was stated that the claimant-appellant along with Sonu Mishra and one Pardeep Kumar were going on the motorcycle but this fact has been denied by Sonu Mishra in his statement recorded as RW-1.

4. Heard.

5. In the present case, initially, a DDR was lodged being DDR No.12 dated 06.06.2004 (Ex. P-36) which was recorded on the statement of the claimant himself while he was admitted in General Hospital, Hisar. It was stated in the DDR that on 06.06.2004 at about 6:30 am, Balwant Singh (the claimant) along with his friends, namely, Pardeep Kumar son of Ruldu Ram and Sonu Mishra were going to Village Bhagana on Hero Honda Motorcycle belonging to Pardeep Kumar to attend the marriage of his (the claimant's) friend. Pardeep Kumar was riding the motorcycle and he (the claimant) along with Sonu Mishra were the pillion riders. When they reached near Village Bus Stand Bhagana, a stray cow suddenly came in front of the motorcycle. Pardeep Kumar, in order to save the cow, applied brakes and as a result of the same they lost their balance and all three fell on the road. The right leg of the claimant-appellant came under the motorcycle and as a result of which he sustained injuries whereas Pardeep Kumar and Sonu Mishra did not sustain any injury. In the claim petition a different version was put forward. It was stated in the claim petition that while Pardeep Kumar, Sonu Mishra and Balwant Singh (the claimant-appellant herein) were going on a motorcycle to attend marriage of his (the claimant's) friend

and when they reached near Bus Stand of Village Bhagana, a cow suddenly came in front of the motorcycle. Meanwhile, a car bearing registration No.HR-02G/6173 also emerged on the scene and the driver of the motorcycle and the car tried to save the cow and applied brakes. As a result of which the occupants of the motorcycle fell on the ground and the claimant sustained injuries. It is apt to note that there is no allegation of rash and negligent driving on the part of the driver of the alleged offending vehicle i.e. car bearing registration No.HR-02-G/6173. Further still, one of the pillion rider, namely, Sonu Mishra, while stepping into the witness box as RW-1 has given a different story and has gone to the extent of saying that on 06.02.2004 he never went with the injured-claimant or Pardeep Kumar to attend the marriage of their friend. The Tribunal has further noticed in the award that even the identity of Pardeep Kumar was not established. Learned counsel for the appellant has not been able to convince this Court as to how the claim petition has wrongly been dismissed. No illegality or irregularity in the impugned award has been pointed out.

6. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed Pending applications, if any, also stand disposed off.

**24.01.2024**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO*