

[235] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-6921-2016 (O&M)
Reserved on 17.09.2024

Pronounced on: 26.09.2024

Iqbal Singh ...Appellant

versus

Baba Bati Karma Traders and othersRespondents

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Upender Prasher, Advocate
for the appellant.

Mr. D.P. Gupta, Advocate and
Mr. Shubham Gupta, Advocate
for respondent No.3-Insurance Company.

PANKAJ JAIN, J. (ORAL)

[1] Claimant is in appeal, aggrieved of order dated 21.01.2016 passed by the learned Motor Accident Claims Tribunal, Amritsar, whereby, his claim petition filed under section 166 of the Motor Vehicle Act stands dismissed.

[2] As per the claimant, he suffered injuries in a motor vehicular accident on 04.09.2014 near Majitha Bye Pass Road, Police Station Sadar, Amritsar due to rash and negligent driving of respondent No.2, who was driving *tralla* bearing No.PB-06-L-2856. He suffered grievous injuries and has been permanently disabled. An amount of Rs.2,00,000/- was spent on the treatment and thus he needs to be compensated.

[3] The claim petition was contested by the respondents. Respondent No.1-driver and respondent No.2-owner of the alleged offending vehicle, denied accident. It was claimed even as per DDR No.17 dated 08.09.2014 relied upon by the claimant, which was recorded on his statement, he admitted none was at fault.

[4] On the basis of the pleadings of the parties, learned Tribunal framed following issues:-

- “1. Whether respondent No.2 caused grievous injury to Iqbal Singh by rash and negligent driving of Tralla bearing No.PB-06-L-2856 on 04.09.2014?*
- 2. Whether the petition is entitled to compensation as prayed for? OPP*
- 3. Whether present petition is bad for non-joinder and mis-joinder of necessary parties? OPR*
- 4. Relief. ”*

[5] Learned Tribunal answered Issue No.1 against the appellant. It was held that claimant failed to prove that rash and negligent driving of the driver of the offending vehicle led to accident. Thus claimant was held not entitled for any compensation.

[6] Counsel for the appellant, while assailing the impugned award submits that discharge card of the claimant has been proved on record. The same shows that the appellant was admitted to hospital with crush injuries. Thus learned Tribunal erred in law in dismissing the claim petition filed by the appellant.

[7] *Per contra*, counsel for the respondent No.3, however, submits that there is no evidence on record to show any rashness or negligence on

part of respondent No.2. No FIR was lodged regarding the accident. DDR i.e. Ex.A1 which was lodged after considerable period of time is sufficient to demolish his case. Thus no fault can be found with the findings recorded by the learned Tribunal.

[8] I have heard counsel for the parties and have carefully gone through the records of the case.

[9] Appellant appeared as AW1 to support his claim. He examined AW2 Partap Singh in support. AW2 Partap Singh admitted that he is not an eye witness to the accident and thus his testimony is inconsequential. Claimant while testifying before the learned Tribunal admitted that no FIR was lodged. The accident was reported to Police on 04.09.2014 i.e. 04 days after the accident. Author of the DDR has not been examined. So far as the discharge card relied upon by the counsel for the appellant is concerned, the same only demonstrates the injury suffered by the appellant. *However, the question is whether the injury can be linked to a motor vehicular accident? and in case there is a link whether the said accident is relatable to the vehicle owned by respondent No.1 and driven by respondent No.2?* There is no evidence on record to show that the appellant met with an accident, involving the vehicle owned by respondent No.1. The factum of accident has been recorded in the document (Exhibit A1) i.e. a Daily Diary Report No.17 dated 08.09.2014 recorded at Police Station Sadar, District Amritsar. The said DDR could not be proved as author thereof was never examined. Even if the same is assumed to have been proved, it has no mention of the offending vehicle despite the fact that the same was recorded 04 days after

the accident. Furthermore, the same has been recorded on the statement made by the appellant and he himself testified in the said report that nobody is responsible for the accident wherein he suffered injuries.

[10] In view of above, this Court finds that there being no evidence on record that can link the injuries suffered by the petitioner to an accident involving vehicle owned by respondent No.1 and driven by respondent No.2, the learned Tribunal rightly dismissed the claim petition filed by the appellant.

[11] Appeal stands **dismissed**.

[12] Pending miscellaneous application(s), if any, also stands *disposed of*.

(PANKAJ JAIN)
JUDGE

26.09.2024
'R. Sharma'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>