



2024:DHC:6263



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order: 21st August, 2024**
+ **MAC.APP. 935/2014 & CM APPL. 17250/2014**
MANPREET SINGHAppellant

Through: Mr. K. S. Negi, Advocate.

versus

AYODHYA PRASAD YADAV & ANRRespondents
Through: Ms. Anupriya Dixit and Mr. Somnath
Parashar, Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The present appeal arises out of the award passed by the learned Tribunal in a petition/case bearing no. 935/14 filed by respondent no.1/appellant herein, for setting aside the award and judgement dated 19th September, 2014 passed by learned Presiding Officer ('P.O' hereinafter) Motor Accident Claims Tribunal, South East District/Saket Courts, New Delhi.

2. The brief facts of the matter are as under:

- i) On 29th January, 2010 at around 9:40 pm, while driving the offending LML scooter bearing no. HR 51D 0539 in a rash and negligent manner, the appellant came from wrong side at fast



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and violent speed and hit the respondent no.1's motorcycle, Hero Honda bearing registration no. DL 35AH 5042 on defense colony, Lala Lajpat Marg flyover, due to which the respondent no.1 fell down and thus suffered grievous injuries on the head as well as other parts of the body. Thereafter, the respondent no.1 was immediately taken to the hospital.

- ii) Subsequently, an FIR bearing no. 13/2010 was lodged under Sections 279/337 of the Indian Penal Code, 1860 at PS Hazrat Nizamuddin. Upon investigation, the IO seized the offending LML scooter as well as the motorcycle and recorded the statement of injured respondent no.1 herein and arrested the appellant.
- iii) The appellant was then directed to produce his driving license, RC and insurance policy, but he was unable to produce the same, thus the offence under Sections 3/181, 39/121 and 146/196 of Motor Vehicles Act, 1988, were added to the FIR. During inquiry, the Investigating Officer ('IO' hereinafter) found that the respondent no.1 was admitted in ICU at Batra hospital. Therefore, as per the report of the injuries sustained by the appellant, the same were found to be grievous, therefore, offence of causing grievous hurt by act endangering life or personal safety of others under Section 338 of the Indian Penal Code, 1860 was also added. On completion of investigation, the



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appellant was chargesheeted by the IO, for the commission of offences under Section 279/338 of the Indian Penal Code, 1860.

- iv) Thereafter, a claim petition under Section 166/140 Motor Vehicles Act, 1988, was filed by the petitioner before the learned Motor Accident Claims Tribunal. Pursuant to the completion of proceedings, the learned Tribunal passed the award dated 19th September, 2014 ('impugned order' hereinafter), thereby, awarding a sum of Rs. 2,91,773/- along with interest at the rate of 9% from the date of filing of the claim petition till realization in favor of the claimaint/respondent no.1 herein and held the appellant and respondent no.2 jointly and severely liable.
- v) Aggrieved by the same, the appellant has filed the instant appeal.

3. Learned counsel appearing on behalf of the appellant submitted that he was merely a passer-by at the place of the alleged accident and therefore, the learned Tribunal erred in holding that the appellant hit the respondent no.1's motorcycle in a rash and negligent manner causing grievous hurt to the respondent no.1.

4. It is submitted that the appellant is neither the owner of the alleged offending vehicle nor was driving the said vehicle and there is no eye witness to substantiate the claim of respondent no.1 that the appellant was driving the alleged offending vehicle at the time of the alleged accident.



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5. It is further submitted that there is no evidence on record with regard to the possession of the offending vehicle by the appellant during the alleged accident and due to the said accident, the appellant also suffered some minor injuries and MLC dated 29th January, 2010 was also prepared for the same.

6. It is also submitted that the appellant was asked to join investigation after about 3 months from the alleged incident and was implicated in the aforementioned FIR without any basis and therefore, the said action by the investigative agency raises doubts regarding the authenticity of the allegations against the appellant.

7. It is submitted that the learned Tribunal erred in rejecting the testimonies of the defense witnesses of the appellant as the testimonies of R1W2 and R1W3 are clear and substantiate the defense of the appellant that he was a passer-by and not driving the offending vehicle and himself suffered injuries due to the said accident.

8. It is submitted that the question of alleged liability on the appellant can only arise once the identity of the driver of the offending vehicle is substantiated with concrete evidence.

9. Therefore, in view of the foregoing submissions, the learned counsel appearing on behalf of the appellant submitted that the present appeal be allowed and the impugned award dated 19th September, 2014 may be set aside.

10. *Per Contra*, the learned counsel appearing on behalf of the respondents opposed the instant appeal submitting to the effect that it was the negligent act of the appellant who came from wrong side and caused



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injuries to the respondent no.1's for which he had to be taken to Moolchand Hospital, and later to Batra Hospital where he was admitted in the ICU.

11. It is submitted that upon the investigation, the investigating officer found that the two injured persons went to Moolchand Hospital for first-aid treatment and left the premises of the hospital without completion of the treatment.

12. It is further submitted that during the course of investigation, the appellant was asked to produce the Driving License, RC and Insurance Policy, however, he was unable to produce the said documents and thereafter, he was subsequently booked under Sections 3/181, 39/192, 146/196 of the MV Act and under Sections 279/338 of the IPC and subsequently the chargesheet was filed against him.

13. It is submitted that the learned Tribunal rightly held the claimant to be liable for driving the vehicle in a rash and negligent manner, causing grievous injuries to the respondent no.1 and awarded the compensation against the appellant as the respondent no.1 got examined where he admitted that the accident had taken place.

14. Therefore, in view of the foregoing submissions, the learned counsel for the respondent no.1 submitted that the instant appeal may be dismissed as the same has been rightly concluded by the learned Tribunal.

15. Heard the learned counsel for the parties and perused the material placed on record.

16. The appeal is admitted.



17. It is the case of the appellant that the learned Tribunal wrongly held the appellant liable of negligence and awarded Rs. 2,91,773/- along with interest at the rate of 9% in favor of the respondent no.1 and against the appellant and respondent no.2, jointly and severely. It is contended that the appellant is neither the owner of the alleged offending vehicle nor was driving the offending vehicle as he was merely a passer-by at the place of the alleged accident and there is no evidence on record with regard to the possession of the offending vehicle by the appellant or any eye witness to substantiate the claim of the respondent no.1.

18. In rival submissions, the learned counsel for the respondent no.1 rebutted the aforesaid arguments by stating that the appeal filed by the Appellant/driver of the offending failed to prove on record as to why he was falsely implicated in the case, whereas respondent no.1 has proved the negligence of the driver of the offending vehicle beyond doubt. Moreover, the appellant failed to file any complaint before the higher police officials that he was falsely implicated in this case. It is contended that upon examining the two defense witnesses, the learned Tribunal has rightly observed that they were unable to prove how the appellant suffered injuries in he was a mere passer-by.

19. Therefore, the limited question for adjudication before this Court is whether the learned Tribunal rightly adjudicated the issue and if the impugned award is legally tenable *qua* the finding that the appellant was driving the offending vehicle negligently due to which the respondent no.1 received grievous injuries in the accident.



20. To answer the same, this Court deems it appropriate to reproduce the findings of the learned Tribunal. The relevant part of which is as under:

“13. Petitioner Ayodhya Prasad in his affidavit of evidence (Ex. PW1/A) stated that he suffered grievous injuries due to rash and negligent driving of respondent no. 1, who was driving the offending LML scooter at the time of accident and came from the wrong side at fast speed. His statement is duly corroborated by police investigation. Police during investigation also found respondent no.1 driving the LML scooter in rash and negligent manner, hence chargesheeted him for commission of offence u/s 279/338 IPC.

14. Driver Manpreet Singh (R-1) also tendered his affidavit of evidence as (R1W1/B). In his affidavit evidence stated that he is neither owner nor the driver of the alleged offending vehicle and merely a passer-by at the place of accident, and due to the accident of the petitioner with scooterist he also suffered minor injuries and his MLC was prepared at Moolchand hospital. He further stated that he went to Moolchand hospital himself and falsely implicated by the police after three months without proper investigation. He also deposed that on 16.03.2010 he was summoned and arrested by the police, and not at all involved in the alleged accident. To corroborate his statement R-1 also examined R1W2 Jatin Sethi and R1W3 Mehtab Singh Kapoor R1W3. 15. R-1, R1W2 and R1W3 all deposed that R-1 suffered injuries on the date of accident, but stated that he was not driving the scooter, only taking stroll at the place of accident with and R1W3. It is worth to be noticed that R1W3 Mehtab Singh uncle of the driver Manpreet Singh not stated anything about the presences of R1W2 Jatin Sethi neither Jatin Sethi talked about the presence of R1W3 Mehtab Singh alongwith the driver Manpreet Singh at the time of accident. Manpreet Singh in his affidavit of evidence (Ex. R1W1/B) also not stated that at the time of accident he was taking stroll with R1W3 only stated that he was the passer-by. It is also not clear



from his testimony that how as a passer-by suffered injuries due to the accident caused between the motorcycle and the scooter. He categorically admitted that his MLC was also prepared at Moolchand hospital. It appears somewhat incredible if a passer-by suffered minor injuries as stated by RIW3 then why he went to Moolchand hospital for preparation of MLC. Furthermore, R-1 has not lodged any complaint against police for false implication. There is nothing came on record to show why the R-1 is falsely implicated by the police in the present case, whereas from the evidence led by R-1, it is confirmed that said accident took place at the place of occurrence as mentioned by petitioner, therefore whatever the discrepancies pointed out by Ld. Counsel for the respondent over place of occurrence becomes irrelevant.

16. Ld. counsel for the driver during arguments found various inconsistency in the statement of the petitioner recorded during investigation and over treatment he received at various hospitals, but these discrepancies in present proceedings do not affect the case of the petitioner, particularly in the circumstances when R-1 himself admitted that he was present at the spot and suffered injuries in the said accident. No plausible explanation was made by driver why he was falsely implicated in present case.

*17. To determine the negligence of the driver of the offending vehicle, I am being guided by the judgment of Hon'ble High Court in case titled "**Basant Kaur & Ors Vs. Chattar Pal Singh and Ors**" [2003 ACJ 369 MF (DB)], wherein it has been held that registration of a criminal case against the driver of the offending vehicle is enough to record the finding that the driver of offending vehicle is responsible for causing the accident. Further it has been held in catena of cases that the proceedings under the Motor Vehicles Act are not akin to the proceedings as in civil suit and hence strict rules of evidence are not required to be followed in this regard. I am also being guided by the judgment of Hon'ble High Court of Delhi in*



"National Company Limited Vs. Pushpa Rana" (2009 ACJ287), wherein it was held that in case the petitioner files the certified copy of the criminal record or the criminal record showing the completion of the investigation by the police or the issuance of charge sheet under Section 279/304 A IPC or the certified copy of the FIR or in addition the recovery memo or the mechanical inspection report of the offending vehicle, these documents are sufficient proof to reach to the conclusion that the driver was negligent. It is also settled law that the term rashness and negligence has to be constructed lightly while making a decision on a petition for claim for the same as compared to the word rashness and negligence as finds mention in the Indian Penal Code. This is because the chapter in the Motor Vehicle Act dealing with compensation is a benevolent legislation and not a penal one.

18. From the entire evidence on record the petitioner's version appears more

credible than that of R-1, hence petitioner able to prove that he suffered accidental injuries due to rash and negligent driving of respondent no. 1 driver."

21. Upon perusal of the above, it is made out that the learned Tribunal examined the evidence placed on record and held that the appellant and respondent no.2 are jointly and severally liable to pay a sum of Rs. 2,91,773/- along with interest @ 9% per annum in favor of the respondent no.1.

22. On the aspect of the testimonies of respondent witnesses, it is not duly noted by the learned Tribunal that R1W3, who is the uncle of the appellant, failed to state anything about the presence of R1W2, nor did R1W2 talk about the presence of R1W3 at the time of the accident. It is pertinent to mention here that the learned Tribunal also observed that it is



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unclear from the appellant's testimony that how he as a passer-by suffered injuries from the alleged accident. In addition to this, the learned Tribunal found no material evidence to show why the appellant is falsely implicated by the police in this case.

23. Further, it is an undisputed fact that the alleged incident had no eye witnesses and the appellant has duly admitted himself that he was present at the spot and suffered injuries due to the alleged incident. Due to the same, there exists several gaps in his story. Moreover, the statement of respondent no.1 is duly corroborated by police investigation where it was found that the appellant was driving the LML scooter in rash and negligent manner, hence, a chargesheet under Sections 279 and 338 of the IPC was filed.

24. Now adverting to the matter at hand, it is a well settled principle of law that the Motor Vehicles Act, 1988, is a piece of welfare legislation and a liberal approach is required while dealing with motor vehicle claims, for the ultimate benefit of the injured victims in the matters.

25. In the case of **Anita Sharma & Ors. v The New India Assurance Co. Ltd. & Anr. AIR 2021 SC 302** the Hon'ble Supreme Court established the importance of material placed on record in order to ascertain liability in MACT claim cases and held as under:

“22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence



*in accident claim cases ought not to be to find fault with nonexamination of some best eyewitnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in **Dulcina Fernandes v. Joaquim Xavier Cruz** wherein this Court reiterated that:*

*“7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was **required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt.** (Bimla Devi v. Himachal RTC [(2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101])”*

26. Upon perusal of the above cited paragraphs, it is made out that the standard of proof in Motor Vehicle Claim cases are to be dealt by looking into the establishment of the claims on touchstone of preponderance of probabilities rather than proving them beyond reasonable doubt. Therefore, it is a duty of the learned Tribunal to reach to a conclusion by thoroughly going through the facts and evidences of each case, while keeping a liberal approach and decide on the aspect of negligence.

27. The main issue in this instant appeal is whether the appellant caused grievous injuries to the respondent no.1 due to rash and negligent driving of the offending vehicle on the site of occurrence. In the instant case, the learned Tribunal has held that the appellant has failed to prove as to how he was a mere passer-by who also suffered minor injuries. The defense witness testimonies further fail to establish the same.



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28. Moreover, it is an admitted fact that the appellant was present at the time of the alleged incident and there were no eye-witnesses. Upon perusal of the material placed on record, there is no evidence to support the claim of appellant that he was a passer-by at the time of the accident and not the driver of the offending vehicle.

29. The police report also found that he was driving the offending vehicle in a rash and negligent manner. Further, there is nothing on record to show why the appellant is falsely implicated by the police in the present case, whereas from the evidence led by the appellant, it is confirmed that said accident took place at the place of occurrence as mentioned by respondent no.1.

30. One of the contentions made by the learned counsel for the appellant is that the appellant was asked to join investigation after 3 months of the alleged incident. With regard to the ongoing discussions, it is a settled position of law, as stated in the case of **Anita Sharma (Supra)**, that strict principles of evidence for proving the cases under the Motor Vehicle Act Claim are inapplicable. Keeping in view of the same, this Court finds no merit in the aforesaid contention.

31. The *prima facie* look upon the evidences and materials placed on record makes it pertinent for this Court to note that in the police investigation, two vehicles were found on the spot of the alleged incident, whereas there are no eyewitnesses to the same. Moreover, the defense witness testimonies i.e. R1W2 and R1W3, are unclear and failed to substantiate the defense of the appellant. It is also a question of doubt as to



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why the appellant who sustained minor injuries, left for Moolchand hospital to get an MLC. Whereas, it has been duly noted in the police investigation that two people came for first-aid and left shortly. Hence, in view of the aforementioned facts and evidences placed on record, this Court is of the view that the evidence on behalf of the appellant is neither corroborative nor credible, whereas, the respondent no.1 has fully established the negligent act of the appellant and satisfied the principle of preponderance of probabilities.

32. Therefore, in light of absence of substantial material placed on record, the appellant has categorically failed to prove that the offending vehicle was not being driven by him at the time of the alleged incident and there is nothing on record to prove that he was merely a passer-by. Moreover, the doctrine of pre-ponderance of probabilities clearly aims at the appellant colliding with the respondent no.1 in a rash and negligent manner and causing the alleged incident.

33. As mentioned earlier, while dealing with claims under the Motor Vehicles Act, 1988, the Courts have to keep in mind the welfare of the persons suffering injuries in the motor vehicle accidents, or to the families of such persons who unfortunately die due to such road mishaps. Hence, the appellant is liable to pay compensation as directed in favor of the respondent no.1, by the learned Tribunal due to his rash and negligent driving which led to the alleged accident.

34. In view of the foregoing discussions and keeping in view the peculiar facts and circumstances of the case, this Court finds no infirmity in the impugned Award dated 19th September, 2014, passed by the learned



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Presiding Officer ('P.O' hereinafter) Motor Accident Claims Tribunal, South East District/Saket Courts, New Delhi. Accordingly, the impugned Award is upheld.

35. Accordingly, the present appeal stands dismissed along with pending applications, if any.

36. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

AUGUST 21, 2024

rk/sm/av

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: DAMINI YADAV
Signing Date: 21.08.2024
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