



102

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-83-1990 (O&M)
Date of decision: 13.01.2025

Mauji Ram

...Appellant

Versus

Sewa Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Singal, Advocate for the appellant.

Mr. Shubhashish Kukreti, Advocate for respondent No.3.

VIKAS BAHL, J. (ORAL)

1. Challenge in the present appeal is to the award dated 19.08.1989 vide which the claim petition No.25 of 1987 instituted by the present appellant-Mauji Ram has been dismissed.

2. Brief facts of the present case are that four claim petitions were filed under Section 110-A of the Motor Vehicles Act, 1939 with respect to the accident which had taken place between Matador-four wheeler bearing registration No.HYO-449 and tractor bearing registration No.HRR-3375. Claim petition No.53 of 1987 was instituted by Sewa Singh who was the driver/injured of Matador-four wheeler bearing registration No.HYO-449. Claim petition No.24 of 1987 was instituted by Jai Singh who was the son-in-law of the present appellant-Mauji Ram and was stated to be sitting in the



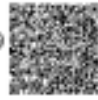
tractor bearing registration No.HRR-3375. Claim Petition No.25 of 1987, from which the present appeal arises, was instituted by the present appellant-Mauji Ram for claiming compensation for the damage caused to his tractor-trolley as he was the owner of the said tractor-trolley. Claim Petition No.26 of 1987 was instituted by Joginder Singh who was driving the tractor bearing registration No.HRR-3375 and who was the son of Mauji Ram-present appellant.

3. The Motor Accident Claims Tribunal, Rohtak (hereinafter to be referred as “the Tribunal”) had dismissed the claim petition Nos.24 to 26 of 1987, which included the claim petition filed by the present appellant i.e., claim petition No.25 of 1987 and had further accepted claim petition No.53 of 1987 and had awarded compensation of an amount of Rs.25,000/- to Sewa Singh. The present appeal, as has been stated hereinabove, has been filed by Mauji Ram-present appellant challenging the award dated 19.08.1989 to the extent that claim petition No.25 of 1987 of the present appellant has been dismissed.

4. The Tribunal had framed the following issues in claim petition No.53 of 1987 and in claim petition Nos.24 to 26 of 1987:-

“6. On the pleadings of the parties, the following issues were framed in petition No.53 of 1987:

- 1- Whether the petitioner sustained injuries in the accident which took place between Matador No.HYO-449 and tractor No.HRR-3375 with rash and negligent driving of the tractor or the four wheeler or the composite negligence thereof? OPP.*
- 2- To what amount of compensation, the petitioner is entitled to and from whom? OPP.*



3- *Relief.*

7. *The following identical issues were framed by my learned predecessor in petitions Nos.24 to 26 of 1987:*

- 1- *Whether the petitioners Jai Singh and Joginder Singh sustained injuries in the accident which took place on the night between 15/16th June, 1987 in between tractor No.HRR-3375 and four-wheeler No.HRO-449 due to rash and negligent driving of four wheeler by its driver respondent No.1?OPP.*
- 2- *Whether the accident mentioned above took place due to rash and negligent driving of tractor by its driver Joginder Singh? OPD.*
- 3- *If issue No.1 is proved to what amount of compensation the petitioners are entitled to and from whom? OPP.*
- 4- *Relief.”*

5. Issue No.1 in claim petition No.53 of 1987 as well as issue No.1 in Claim Petition Nos.24 to 26 of 1987 were the most relevant issues as under the said issues, it had to be determined as to whether the driver of the tractor bearing registration No.HRR-3375 owned by the present appellant was rash and negligent or the driver of the Matador-four wheeler bearing registration No.HYO-449 was rash and negligent. The Tribunal, after detailed analysis, had decided the said issue against the present appellant and Joginder Singh, who were the owner and driver respectively of tractor bearing registration No.HRR-3375 and had decided the same in favour of Sewa Singh, who was the driver of Matador-four wheeler bearing registration No.HYO-449. While coming to the said conclusion, the Tribunal had considered the evidence of the said Sewa Singh who had appeared as PW2 and also the evidence of Joginder Singh and Jai Singh and



after considering their evidence, had found that the evidence of the said Joginder Singh and Jai Singh was unreliable whereas the evidence led by Sewa Singh was reliable and trustworthy. It was observed that it was proved on record that the said Sewa Singh had suffered fractures whereas the occupants of the tractor, owned by the present appellant, had not sustained any injury and even the abrasions which were stated to have been suffered by the said occupants were doubtful.

6. The fact that Ram Phal who was the occupant of the tractor had not been examined and that the present appellant was guilty of withholding the said independent witness was also considered and adverse inference was drawn against the present appellant. It was also found in para 11 of the award that Joginder Singh, who was the driver of the vehicle owned by the present appellant, did not have the driving licence as no such driving licence had been produced on record. Moreover, from the photographs and other evidence it was apparent that the vehicle which was under the ownership of the present appellant, was being driven on the wrong side.

7. Under Issue No.3, with respect to the claim of the present appellant regarding damage caused to the vehicle owned by him, it was observed that the documents produced by the present appellant were unreliable and even the witness of the appellant, Jagan Nath, had admitted that he had not made any entry in his account books regarding any repair made to the said vehicle. In view of the said circumstances, after considering the entire evidence, the claim petition filed by the present appellant was dismissed.

8. Learned counsel for the appellant has not been able to show as



to how the award passed by the Tribunal is illegal or perverse or is contrary to the evidence on record. It could not be disputed before this Court that the driver who was driving the vehicle owned by the present appellant did not have the driving licence nor the same was produced on record and also that it was the vehicle owned by the present appellant which was on the wrong side and that it was Sewa Singh who had suffered serious injuries in the accident. No explanation was provided as to why Ram Phal who was an independent witness and was also stated to be the occupant of tractor had not been examined. Even no relevant evidence has been referred to by the counsel for the appellant in order to show that the present appellant had incurred substantial expenses on the tractor-trolley.

9. Keeping in view the abovesaid facts and circumstances, the award dated 19.08.1989 passed by the Tribunal dismissing the claim petition No.25 of 1987 is found to be in accordance with law and the present appeal being meritless, deserves to be dismissed and is accordingly dismissed.

10. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

13.01.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No