



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

209

**FAO-5549-2002 with
XOBJC-12-CII-2005
Date of decision :07.11.2025**

LAL SINGH**... APPELLANT**

VERSUS

NATIONAL INSURANCE CO. AND ANR.**...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Ms. Lipika, Advocate
for the appellant.

Mr. Ravinder Arora, Advocate
for respondent No. 1.

Mr. R.K. Dhiman, Advocate
for respondent No. 2.

PARMOD GOYAL, J.

1. The unsuccessful injured claimant has challenged the impugned award dated 18.09.2002, passed by the Motor Accidents Claims Tribunal, Yamuna Nagar (hereinafter referred to as 'Tribunal'), whereby the claim petition filed by the injured claimant was dismissed.

2. It was the case of the appellant-claimant that on 12.10.1998, he, along with one Dharmendra, was proceeding towards Bus Stand, Yamunanagar. When they reached at culvert of the Ganda Nala, located between ITI Chowk, Yamunanagar, a Hero Honda motorcycle bearing registration No. HR-02-1007 came from behind and struck the appellant-claimant, causing him to fall and sustain injuries. He was taken to the Civil Hospital, Yamunanagar, where he was medico-legally examined and remained admitted for 18 days. During this period,



he was found to have suffered a fracture in his right leg. The appellant-claimant asserted that he had incurred expenses of approximately ₹50,000/- on his treatment. It was further stated that FIR No. 393, under Sections 279 and 337 IPC, was registered with the police in respect of the said accident.

3. Respondent No. 1-the Insurance Company, as well as Respondent No. 2-the owner of motorcycle bearing registration No. HR-02-1007, both asserted that the said motorcycle was stolen in the year 1991 and remained untraced thereafter. It was stated that the claim in respect of the said theft had been settled by Respondent No. 1 with Respondent No. 2. The vehicle having remained untraced, both respondents denied any liability to pay compensation to the claimant. It was further submitted that the motorcycle was stolen on 03.12.1991, in respect of which FIR No. 446 dated 12.12.1991 was duly registered, and the theft claim was settled for an amount of ₹19,000/-. The ownership of the motorcycle was thereafter transferred in the name of the Insurance Company.

4. In order to prove the factum of the accident, the appellant-claimant himself appeared as PW-5 and also examined Dharmendra, who was accompanying him at the time of the accident, as PW-6. Both witnesses reiterated the manner of occurrence as stated by the appellant-claimant in his claim petition and asserted that it was the motorcycle bearing registration No. HR-02-1007 which had caused the injuries to the appellant-claimant.

5. However, the learned Tribunal, upon examining the contents of the FIR, observed that the offending vehicle was mentioned therein as a scooter, and not as a motorcycle, as stated by PW-5 and PW-6. The Tribunal, therefore, concluded that since the onus to prove the occurrence of the accident and involvement of the vehicle rested upon the claimant, he had failed to discharge the said onus. Accordingly, the claim petition filed against the respondents was



dismissed.

6. On the other hand, Respondent No. 2 appeared as RW-1 and examined Niranjana Singh as RW-2, who proved the lodging of FIR No. 446 dated 03.12.1991 and also produced the untraced report (Ex. R-4). Respondent No. 2, while appearing as RW-1, stated that his motorcycle had been stolen on 03.12.1991 and had never been traced till the date of his examination.

7. The facts in the present case are not substantially in dispute. As far as the appellant is concerned, he has succeeded in establishing that he suffered injuries in a motor vehicular accident. Similarly, the respondents have also successfully proved that the motorcycle bearing registration No. HR-02-1007 was stolen on 03.12.1991, that FIR No. 446 was lodged in respect of the said theft, and that the stolen motorcycle was never recovered by the police. It is further established that the claim of Respondent No. 2 on account of the theft of the motorcycle was duly settled by the Insurance Company, and an amount of ₹19,000/- was paid towards the loss suffered by Respondent No. 2. Therefore, in the present case, the theft of the motorcycle and the fact that it remained untraced, and was neither in the possession of Respondent No. 1 nor in the possession of Respondent No. 2, stands duly proved.

8. The learned Tribunal has rightly held that the onus to prove the accident and the involvement of vehicle No. HR-02-1007 rested upon the appellant-claimant. It was the appellant-claimant who was required to discharge the onus cast upon him. Admittedly, in the claim petition, as well as while appearing as PW-5 and PW-6, the appellant-claimant and another eyewitness both stated that the accident occurred with the motorcycle bearing registration No. HR-02-1007. PW-5 further admitted that FIR No. 393 under Sections 279/337 IPC was registered based on his statement, and he has neither disowned nor



disregarded the statement on which the FIR was lodged. However, in the FIR, the offending vehicle was mentioned as a scooter by the appellant-claimant himself, whereas in the claim petition and during court testimony, the offending vehicle was described as a motorcycle. The appellant-claimant has failed to explain the circumstances under which he described the offending vehicle as a scooter at the time of lodging the FIR. No explanation has been offered for the discrepancy in the description of the offending vehicle.

9. Therefore, in these circumstances, it cannot be held that the claimant-appellant has discharged the onus cast upon him. His failure to provide a correct description of the offending vehicle in the FIR, and subsequently describing the same vehicle as a motorcycle, without offering any explanation for the discrepancy, is fatal to his case.

10. In view of the above-noted facts and circumstances, no fault can be found with the conclusions drawn by the learned Tribunal. The appeal is devoid of merit and is, therefore, dismissed. The findings of the learned Tribunal are upheld.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

07.11.2025
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No