

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****214****FAO-693-2009 (O&M)****Date of decision: 13.02.2025****Bir Singh****...Appellant(s)****Vs.****Anoop Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Tushar Gera, Advocate for the appellant.

Mr. Sandeep Suri, Advocate for
Mr. Nitin Gupta, Advocate for
respondent No.4-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the injured-claimant against the Award dated 11.08.2008 passed by the learned Motor Accident Claims Tribunal, Hisar (hereinafter referred to as "the learned Tribunal") whereby the claim petition filed by the appellant under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"), has been dismissed.

2. Learned counsel for the appellant vehemently submits that the claim petition of the appellant has been wrongly dismissed as in the accident in question, the appellant had suffered multiple and grievous injuries including fractures of ribs. The appellant remained in CMC Hospital, Hisar and had spent more than Rs.50,000/- on his treatment. Accordingly, the appellant is entitled to Rs. 5 lacs alongwith interest @ 18% per annum and costs.



3. It is further submitted that the appellant has led sufficient evidence to prove the rash and negligent driving of the TATA-407 bearing registration No. HR-39/4786 (hereinafter referred to as “the alleged offending vehicle”), which was being driven by respondent No.1 at the time of accident; is owned by respondent No.2; and insured by respondent No.4 herein. It is accordingly prayed that the impugned Award be set aside.

4. No other argument is raised on behalf of the appellant.

5. I have heard learned counsel for the appellant and perused the case file in great detail.

6. Brief facts of the case as set out by the injured-claimant in the claim petition are that on 13.5.2004, he was going to his village Sarsod, in the offending vehicle, which was being driven by respondent No.1 Anoop Singh rashly, negligently and at a very high speed. When they reached near village Gaibipur at about 8.00 a.m. on seeing a cow suddenly coming on the road, respondent no.1 applied brakes and lost control over the vehicle and the vehicle turned turtle. The claimant received multiple serious injuries including fractures of ribs and was admitted in CMC Hisar and spent more than Rs.50,000/- on his treatment.

7. Upon consideration of the pleadings; as also evidence brought on record by the parties, the learned Tribunal concluded that the accident in question had taken place due to “***an act of God***” as the cow had suddenly appeared in front of the vehicle and the respondent



No.1 had suddenly applied brakes. The said accident had therefore, not occurred due to any fault or negligence on the part of respondent No.1. Ld. counsel for the appellant has not been able to controvert the said admitted facts.

8. As regards, the injuries claimed to have been suffered by the appellant, there is no evidence on file in support. It is further the claim of the appellant that he had spent more than Rs.50,000/- on his treatment. However, learned counsel for the appellant has admitted before this Court that no bills, or proof of payment of any medical expenses had been attached by the appellant before the Id. Tribunal, nor even before this Court. It is also pertinent that although the accident is stated to be of 13.05.2004, however DDR No. 5 (Ex.P27) was registered on the statement of respondent No.1, four days thereafter on 16.05.2004. It is also not denied that the police had investigated the matter and found respondent No.1 to be innocent and had accordingly not registered the FIR.

9. Learned counsel for the appellant is unable to dispute or controvert the above said findings.

10. Keeping in view the facts as noted above, the present appeal is hereby **dismissed**.

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

13.02.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No