

2025:PHHC:001997



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

**229**

**FAO-6236-2013 (O&M)**

**Date of Decision : 09.01.2025**

**BHUPENDER**

.... Appellant

**VERSUS**

**KRISHAN KUMAR AND ORS**

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. J.P. Sharma, Advocate for the appellant.

Mr. Sandeep Kumar Yadav, Advocate  
for respondents No.1 and 2.

Mr. Punit Jain, Advocate for respondent No.3.

**ALKA SARIN, J. (ORAL)**

1. The present appeal has been preferred by the claimant-appellant aggrieved by the award dated 16.08.2013 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') dismissing his claim petition filed under Section 166 of the Motor Vehicle Act, 1988 for grant of compensation on account of injuries suffered by him in a motor vehicular accident.

2. Brief facts relevant to the present *lis* are that the claimant-appellant filed a claim petition averring therein that on 29.04.2011, he along with Om Parkash and Mahender Singh was going towards Narnaul from his Village Gehli on a three-wheeler bearing registration No.HR-66-8055. The said three-wheeler was driven by Mahender Singh at a moderate speed by observing traffic rules and at about 7:30 am when they reached near Sainio

Ki Dhani near Canal, Singhana Road, Narnaul, a TATA 407 four-wheeler bearing registration No.RJ-18-GA-1340, which was being driven by respondent No.1 at a very fast speed, rashly and negligently, came from behind and hit the three-wheeler. As a result, the claimant-appellant fell down on the road and sustained grievous injuries on his person. The rear tyre of the TATA 407 crushed the hand of the claimant-appellant. After the accident the claimant-appellant was taken to Government Hospital, Narnaul where he was given first aid and his medico legal examination was also conducted. Thereafter, on seeing the condition of the claimant-appellant, he was referred to PGIMS, Rohtak where he remained admitted as an indoor patient and was operated upon. It was further averred that the accident was witnessed by Om Parkash and Mahender Singh and many other persons who were present on the spot.

3. Upon notice, respondents No.1 and 2 filed their joint written statement averring therein that the claimant-appellant had filed a vague, false and frivolous claim petition. It was further averred that the vehicle in question was falsely implicated just to get compensation. It was further averred that the alleged accident took place on 29.04.2011 and the FIR was lodged on 05.05.2011. Respondent No.3 filed a separate written statement raising various preliminary objection regarding cause of action, non-joinder of necessary parties, *locus standi* etc. On merits it was pleaded that no such accident had taken place and the offending vehicle in question has been falsely involved in the present case.

4. From the pleadings of the parties the following issues were framed :

1. Whether the motor vehicle accident which took place on 29.04.2011 at about 7:30 am in the area of near Sainio Ki Dhani, near Canal Singhana Road, Narnaul resulting into injuries to the petitioner – Bhupender – it was caused due to rash and negligent driving of vehicle No.RJ-18-GA-1340 by respondent No.1 ? OPP
2. If issue No.1 is proved, the petitioner is entitled to get compensation, if so to what amount and from whom ? OPP
3. Whether the vehicle in question was being driven by respondent No.1 in violation of terms and conditions of insurance policy ? OPR
4. Relief.

5. The Tribunal dismissed the claim petition vide impugned award dated 16.08.2013 on the basis of finding on issue No.1 to the effect that the story put forth by the claimant-appellant was not believable as regard the manner of the accident and that the vehicle in question was falsely implicated only to get compensation and thus the question of rash and negligent driving by respondent No.1 did not arise. Hence, the present appeal against the impugned award.

6. Learned counsel for the claimant-appellant would contend that the Tribunal has erred in dismissing the claim petition inasmuch as the finding of the Tribunal on issue No.1 is wrong. It is further the contention that the rash and negligent driving of respondent No.1 stands duly proved by registration of the FIR against respondent No.1. It is further the contention that the Tribunal has ignored the documents and statements of witnesses and thus the impugned award is not sustainable in law.

7. *Per contra*, learned counsel for respondent No.3-Insurance Company would contend that the vehicle in question was falsely implicated by the claimant-appellant just to get compensation. He would further contend that mere registration of the FIR cannot *per se* prove the accident or rash and negligent driving by respondent No.1. Learned counsel would further contend that there is no error in the finding of the Tribunal on issue No.1 and hence no fault can be found with the impugned award.

8. Heard.

9. In the present case, in order to prove issue No.1 as regards the rash and negligent driving of vehicle i.e. Tata 407 four wheeler bearing registration No.RJ-18GA-1340 by respondent No.1, the claimant-appellant himself stepped into the witness box as PW-2 and examined Om Parkash, the alleged eye-witness of the accident as PW-3; ESI Hoshiar Singh, who has only proved on record copy of the FIR, as PW-4 and Mahender Singh, who was allegedly driving the three-wheeler in which the claimant-appellant was sitting, was examined as PW-5. PW-2 Bhupender, the claimant-appellant, and PW-4 Hoshiar Singh have testified in verbatim that the

claimant-appellant was going towards Narnaul from his village Gehli in three-wheeler bearing registration No.HR-66-8055 and the said three-wheeler was being driven by PW-5-Mahender Singh at a moderate speed by observing traffic rules and on his correct left side and the Tata 407 four wheeler bearing registration No.RJ-18GA-1340 being driven by respondent No.1 came from behind and hit the three-wheeler as a result of which the claimant-appellant fell on the road and sustained injuries. However, PW-3 Om Parkash in his cross-examination has testified that the claimant-appellant, Bhupender, is his uncle and at the time of accident, 5-6 other passengers were also sitting in the said three-wheeler. PW-5 Mahender Singh in his cross-examination has testified that Bhupender was sitting in the rear side in his three-wheeler and the offending Tata 407 four wheeler bearing registration No.RJ-18GA-1340 hit his three-wheeler from behind and only the front mirror of his three-wheeler was damaged. He further deposed in his cross-examination that no other person except Bhupender received injuries. Thus, PW-5 Mahender Singh, who was driver of the three-wheeler, has nowhere stated about the damage of his three-wheeler or that other passengers in his three-wheeler also received injuries due to the hitting of the alleged offending vehicle in his three-wheeler and has testified that only the front mirror of his three-wheeler was damaged.

10. Further PW-1 Dr. Pankaj Aggarwal has only proved the original disability certificate of the claimant-appellant as Ex.PW-1/A and has nowhere testified that the claimant-appellant has suffered any such disability in the alleged accident in question.

11. Moreover, no mechanical reports of the three-wheeler in which the claimant-appellant was sitting or of the alleged offending vehicle being driven by respondent No.1 at the time of accident have been proved on record on behalf of the claimant-appellant to establish the factum of taking place of the accident in question. Further, a perusal of copy of the FIR proved on record by PW-4 ESI Hoshiar Singh as Ex.PW-4/A, reveals that the same nowhere mentions about taking into police possession the above vehicles after the accident. The FIR contains only the version of the appellant-claimant.

12. In view of the above, there is no error in the findings recorded by the learned Tribunal on issue No.1 and the same is upheld. Accordingly, I do not find any merit in the present appeal and the same is dismissed. Pending applications, if any, also stand disposed off.

**09.01.2025**  
*Aman Jain*

**(ALKA SARIN)**  
**JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking*  
*Whether reportable: Yes/No*