



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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FAO-5378-2016(O&M)
Date of decision: 20.08.2025

Pankaj

...Appellant(s)

Vs.

Jai Kumar & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ankit Saini, Advocate
for the appellant.

Mr. Mohit Kaushik, Advocate for
Mr. Vishwajit Bedi, Advocate
for respondent No.2.

NIDHI GUPTA, J.

Present appeal is of the year 2016. Order sheets show that after filing of the appeal, the matter has been adjourned at request of learned counsel for the appellant on 27.04.2018, 14.12.2018, 18.12.2018, 20.02.2019, 02.12.2019 and 13.01.2025. The matter has been adjourned due to non-appearance on behalf of the appellant on 18.12.2018 and 23.04.2019. Even notice of motion was issued in the absence of learned counsel for the appellant on 26.07.2019. Even today, a request for adjournment has been made by learned counsel for the appellants. However, given the above facts, this Court is not inclined to adjourn the matter.



2. Present appeal has been filed by the injured-claimant against dismissal of his Claim Petition by Motor Accident Claims Tribunal, Ambala vide Award dated 27.11.2015 passed in MACP Case No.214 dated 05.07.2014 filed u/s 166 of the Motor Vehicles Act.

3. Learned Tribunal had dismissed the Claim Petition as the appellant was unable to prove that the accident dated 05.02.2012 had been caused by respondent No.1 due to the rash and negligent driving of TATA Sumo bearing registration No.HR-26G-7615 (hereinafter referred to as “the offending vehicle”). The offending vehicle was owned by respondent No.1 and insured by respondent No.2.

4. Ld. Counsel for the appellant submits that the learned Tribunal was in error in dismissing the claim petition of the appellant as it failed to appreciate the evidence on record. The Tribunal has erred in not considering and appreciating the statement of PW3 Kailash Kumar eyewitness who had filed his affidavit Ex.PW3/A and also specifically deposed that accident in question had taken place due to the rash and negligent driving of the offending vehicle by respondent no.1 who had come on the wrong side of the road and hit directly into the motorcycle on which the appellant and Kapil were travelling. It is submitted that the said testimony has been fully corroborated by PW4 Kapil eyewitness. Yet, these facts and evidence have been overlooked by the Learned Tribunal.



5. It is submitted that the learned Tribunal has also erred in ignoring the fact that FIR no.6 dated 7.2.2012 has been registered against the respondent no.1 for which he is facing trial. Thus, the conclusion of the Learned Tribunal that appellant had been unable to prove the accident in question, is erroneous and unsustainable.

6. No other argument is made on behalf of the appellant.

7. I have heard learned counsel for the appellant and perused the case file in great detail. I find no merit in the submissions of the appellant as there are glaring discrepancies in the case set up by the appellant. FIR was registered on the basis of statement of eyewitness Kailash Kumar PW3. There is unexplained delay of two days in registration of the FIR. In another case, this delay could perhaps have been overlooked. However, in the present case it is to be noted that eyewitness PW3 Kailash Kumar has stated that he saw the accident and noticed the registration number of the offending vehicle. Yet, he did not inform the Police regarding the accident from 05.02.2012 to 07.02.2012 and neither did he call the emergency No.100 nor did he visit the injured in the hospital despite the fact that both appellant and PW3 claimed to be co-villagers.

8. Furthermore, in the MLR, it is stated that some unknown vehicle had caused the accident, and present vehicle was involved later on. MLR also does not mention as to who brought the injured to the hospital; whereas as per testimony of PW3, he had accompanied the parents of the appellant in



taking the appellant to the hospital. PW4, who is also stated to be an eyewitness has also not disclosed as to how or who took the injured to the hospital. Even the doctor who prepared the MLR has not been examined to ascertain as to who brought the appellant to the hospital as, as per the version of PW3, he had taken the appellant to the hospital.

9. In a third version, it has been stated by PW3 that he had not himself gone to the hospital but he met the Police when they came to the hospital and in the said statement, he stated that he noted down the number of the TATA Sumo and respondent No.1 ran away from the spot and after some time father of the appellant also reached there. Therefore, the statement in the FIR is in entire contradiction of the statement made by PW3 in the witness box. The testimony of PW3 is not supported by documentary evidence. Given the above facts, this Court is not inclined to interfere in the present matter. Present appeal stands **dismissed**.

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

20.08.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No