



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

(112)

**FAO NO.5928-2017
DATE OF DECISION: 03.11.2025**

Sunny

.....Appellant

VERSUS

Sanjeet and others

.....Respondents

CORAM HON'BLE MR. JUSTICE PARMOD GOYAL

Present Ms. Preeti Singh, Advocate, for the appellant.
Mr. Krishan Kant, Advocate, for respondent no.3.

PARMOD GOYAL, J (ORAL)

1. Claimant/appellant has challenged the Award dated 16.12.2016, passed by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'Tribunal') vide which the Claim Petition preferred by claimant/appellant was dismissed as claimant/appellant had failed to prove the accident and involvement of offending vehicle and respondent no.1 in the accident.

2. The simple case of claimant/appellant was that on 03.11.2014, at about 10/11:00 am, he along with his friend Arun (PW3) had gone to Balaji College of Engineering Polytechnic, Kushambi Mor, Loharu Road, Bhiwani on motorcycle bearing registration No.HR-19J-0270. Motorcycle was driven by Arun Kumar (PW3) and claimant/appellant was pillion rider. At about 10:30 am, when they reached near Titani minor on Bhiwani Road, in the meanwhile, Bolero Camper bearing registration No. HR-16M-9722 being driven by respondent no.1 in a rash and negligent manner came and hit the motorcycle on which claimant/appellant was pillion rider. On account of impact, both the occupants of motorcycle had fallen and suffered injuries.

The driver of Bolero fled away with offending vehicle. Arun Kumar (PW3)



had noted down its registration number. It was Arun Kumar (PW3) who had shifted the claimant/appellant to Baba Yogi Neta Nath Hospital and Research Hospital Centre, Lohani but in view of nature of injuries, the claimant/appellant was referred to Sarvodaya Multispeciality Hospital, Hisar, where he remained admitted from 03.11.2014 to 23.11.2014. Claimant/appellant claimed to have spent more than Rs.10, lacs at the hospitals. He also remained admitted in Medanta Hospital, Gurugram and was re-admitted in Sarvodaya Hospital from time to time and claimed to have spent Rs.10,00,000/- on his treatment as well as transportation, special diet and attendant charges.

3. It was asserted that claimant/appellant was about to complete his engineering course and would have got monthly job of Rs.50,000/-. It was also claimed that FIR No. 817 dated 07.11.2014 under Sections 279, 337 and 338 IPC was registered with Police Station Sadar, Bhiwani. Claimant/appellant has claimed that he had become 100% disabled on account of injuries and accordingly claimed compensation of Rs.1 crore with interest.

4. Respondents No.1 and 2 had denied the accident in totality and asserted the FIR to be false. They, however, asserted that liability to pay compensation was of that of Insurance Company.

5. Insurance Company also denied the assertions made by claimant/appellant and claimed that no accident had taken place with offending vehicle and offending vehicle and respondent no.1 were falsely implicated to grab compensation.

6. Following issues were framed by learned Tribunal:-



“(1) Whether the accident in question, causing injuries to Sunny son of Kamal Singh took place due to rash and negligent driving of offending vehicle bearing registration No.HR-16M-9722 by respondent no.1, as alleged? OPP.

(2) If issue no. 1 is proved, whether the petitioner is entitled for compensation, if so, to what amount and from whom? OPP.

(3) Whether the claim petition is liable to be dismissed on the grounds taken by the respondent no.3 in its written statement? OPR.

(4) Relief.”

7. Learned Tribunal after noting respective evidence of parties, vide para nos.27, 28, 29 and 30 concluded that claimants/appellants have failed to prove the accident with offending vehicle driven by respondent No.1. Findings of learned Tribunal are reproduced as under:-

“As per averments of the petition, the accident took place on 03.11.2014. Claimant was admitted in Shri Baba Yogi Neta Nath Hospital & Research Hospital Centre, on that very day. This is apparent from the prescription slips of Shri Baba Yogi Neta Nath Hospital & Research Hospital Centre, Lohani (Ex.P2, Ex.P2 and Ex.P3). The FIR in this case was registered on 07.11.2014 by the claimant (Ex.P9), wherein claimant alleged that on that very day, he and his friend Arun were on their way to college on their motorcycle bearing registration No.HR-19J-0270. At about 10.00 a.m., they reached near Titani minor, where Chocolate colour Bolero vehicle bearing registration no. HR-16M-9722, hit their motorcycle and he suffered a fracture of spinal cord. However, his friend Arun



suffered a minor injury. An unknown driver of Bolero vehicle caused the accident. His friend Arun shifted him to Lohani Hospital and from there he was referred to Sarvodaya Hospital. Claimant and Respondents have examined Dr.B.L.Bagri (PW12/RW1), who has admitted that no MLC was issued. He has admitted that the brother and brother-in-law of the Claimant had made the statement that they do not want to take any police action as the injuries were suffered by the Claimant due to fall from bike. Later on, on 07.11.2014, an affidavit was filed by the mother of the Claimant namely Sushil Devi for issuing MLR. The statement of the relatives for not issuing MLC is Ex.R2. The persons who had given the writing (Ex.R2) were not known to him personally. He denied that the writing (Ex.R2) came in existence on the direction of Respondents no.1 and 2. Further, Arun Kumar (PW3) has deposed that soon after the accident, the father of Sunny was informed over the phone, who reached Shri Baba Yogi Neta Nath Hospital & Research Hospital Centre, Lohani within 15 minutes. In order to ascertain the facts, the file of the criminal case titled "State Versus Sanjeet" pending in the court of ACJM, Bhiwani was also called. I have perused the evidence, It appears from the evidence that soon after the accident. Sunny was shifted to Cha Baba Yogi Neta Nath Hospital & Research Hospital Centre, Lohani, where the father of Sunny also reached within 15 minutes. Thereafter, Sunny was shifted from Shri Baba Yogi Neta Nath Hospital & Research Hospital Centre, Lohani to Sarvodaya Multispeciality Hospital, Hisar, where



Dr.B.L.Bagri recorded the following statement of two persons:-

"Our patient has suffered the injuries by falling from the bike of his own. We do not want to take any police action and also do not want to get the MR issued.

Sd/-

Sd/-

Jija

Bishnoi, brother."

28. This also deserves to be mentioned that Sushil Devi, mother of the Claimant filed an affidavit (Ex.R3) with the hospital stating that MR had not been issued in this case and that the MR be issued. Sunny in his testimony before this Tribunal has stated that he was disclosed the registration number of the offending vehicle by his friend Arun Kumar (PW3). The testimony of Sunny was also recorded by ACM, Bhiwani in the criminal case, wherein he deposed that he does not identify the driver. This also deserves to be highlighted that the State case was fixed up before AJM, Bhiwani for 01.06.2016, for which date Arun was served. However, he did not appear and warrant of arrest was issued against him for 18.08.2016. On 18.08.2016, arrest warrant issued against Arun was not received back and the case was fixed up for 15.10.2016. On 15.10.2016, again Arun did not appear despite service. Till date, Arun is avoiding to appear in the court of ACM, Bhiwani to depose in the criminal case. A perusal of the report of the mechanic in the file of the criminal case titled 'State Vs. Sanjeet' would show that very minor damage has been shown to the offending vehicle and it is stated that the vehicle is fit for driving. It is stated in the report that the



brake system; clutch; accelerator; suspension and steering are OK and the vehicle is fit for driving. It is also stated that only some minor scratches are on the left side front and left side head light.

29. On the basis of the above evidence, it cannot be said that vehicle no. HR-16M-9722 was involved in the accident. This also deserves to be mentioned that though Sunny suffered very serious injuries, yet his friend Arun, who is alleged to be driving the bike did not suffer any injury at all.

30. From the above evidence, it appears that Sunny suffered the injuries by falling from the bike and later on, to get the compensation the alleged offending vehicle was involved. I am of the considered view that claimant has failed to prove that the accident took place due to the negligence of Respondent no.1 by driving vehicle no.HR-16M-9722. Accordingly, I hereby find this issue against the Claimant.”

Learned Tribunal has concluded that claimants/appellants have failed to prove involvement of offending vehicle in accident dated 03.11.2014 and has disbelieved evidence of claimant and contents of FIR made on 07.11.2014, in view of testimony of doctor as well as statements of his brother-in-law and brother before the doctor that claimant on 03.11.2014 had suffered injuries from fall of vehicle and they do not want to proceed against anybody.

8. Learned counsel for claimant/appellant has argued that learned Tribunal has wrongly placed reliance upon the statements of doctor as well as the statement produced by doctor, on the basis of which, MLC was not



recorded. It is submitted that on 03.11.2014, claimant/appellant could not have suffered any statement either to police or to doctor as he was not in a condition on account of serious injuries suffered by him. It is asserted that the statements of his brother-in-law and brother allegedly made on 03.11.2014 are hear-say statements and not based upon any material as they were not present at the time of occurrence. The alleged statement is liable to be ignored.

9. On consideration of arguments raised on behalf of learned counsel for the claimant/appellant, though on first look they appear to be attractive, I do not find any merit in view of detailed examination and analysis of evidence by the learned Tribunal.

10. Facts are not much in dispute.

11. In present case, as per claimant/appellant, it was he and Arun Kumar (PW3) who were going on motorcycle and on the day of the accident i.e 03.11.2014, both claimant/appellant and Arun Kumar (PW3) suffered injuries. Arun Kumar (PW3) had suffered minor injuries and was not subjected to any medical treatment as per the own case of claimant/appellant. It was claimant/appellant only who was put to medical treatment on 03.11.2014 itself. He was taken to Baba Yogi Neta Nath Hospital and Research Hospital Centre, Lohani. As per the case of claimant/appellant, he was taken to hospital by Arun Kumar (PW3). It has also come in evidence that immediately within 15 minutes of reaching hospital, father of claimant/appellant and other relatives had also arrived at the hospital. Brother and brother-in-law both had suffered statement that *“Our patient had suffered injuries by falling from the bike on his own. We do*



This statement made by brother and brother-in-law could not be challenged by claimant/appellant. He has not produced either his brother-in-law or brother to disprove the statement or disown the statement. There is no evidence on record to conclude that on 03.11.2014 when claimant/appellant was taken to hospital in injured condition, he was unconscious or was not fit to make statement. No such evidence has come on record. Moreover, in present case, eye witness of the occurrence i.e Arun Kumar (PW3) who was also present at the hospital when claimant/appellant was being given treatment and when the statement of his family members for not issuing MLR was being recorded by the doctor. No protest was ever made by Arun Kumar (PW3), in this regard. Arun Kumar while appearing as PW3 has failed to explain his conduct in not disclosing and not recording FIR when he himself had witnessed the occurrence.

12. Admittedly, FIR was lodged on 07.11.2014 and that too by the claimant/appellant himself and not by Arun Kumar (PW3), who happened to be present and had allegedly suffered minor injuries. Failure to record FIR and disclose manner of accident immediately after occurrence especially in view of statement made by family members of claimants/appellants themselves that claimant had fallen from motorcycle and do not want to take any police action infact goes to show that the first version which has come in a public domain was regarding non involvement of respondent no.1 and that of offending vehicle.

13. First version which has come in public domain which claimant/appellant could not discredit infact goes to show that present is a case where accident had taken place on account of own fault either of the claimant/appellant or Arun Kumar (PW3) as claimant/appellant had fallen



from the motorcycle and it was not hit by any other vehicle. It is also not in dispute that during the pendency of criminal case bearing No. 595-1 of 2014, arising from FIR No. 817 dated 07.11.2014, under Sections 279, 337 and 338 UIPC, registered at Police Station Sadar Bhiwani with great difficulty presence of Arun Kumar (PW3) was secured after issuing repeated Non Bailable Warrants of arrest and he was examined as PW7. Both claimant and PW7 have not identified the respondent no.1 in the criminal trial and accordingly, respondent no.1 was acquitted.

14. No doubt, the findings of criminal Court are not binding upon Tribunal in a claim case, however, in the facts and circumstances of present case especially in view of statements of family members of claimant before the doctor admitting non involvement of offending vehicle infact finds corroboration from acquittal of respondent no.1.

15. No fault with the findings recorded by learned Tribunal can be found.

16. Appeal is without any merit, hence, dismissed.

03.11.2025
mamta

(PARMOD GOYAL)
JUDGE

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