

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****220****FAO-1776-2008(O&M)****Date of decision: 06.05.2026****Shiv Kumar****...Appellant(s)****Vs.****Nagina Khan & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Arvind Singh, Advocate for
Mr. Ram Kumar Saini, Advocate
for the appellant.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant laying challenge to the Award dated 09.01.2008 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter 'the learned Tribunal') in MACT Case No.73 dated 07.10.2005 filed under Section 166 of Motor Vehicles Act (hereinafter "the Act") whereby Claim Petition had been dismissed.

2. It was pleaded case of the appellant before the learned Tribunal that the appellant had suffered injuries in a motor vehicular accident that took place on 06.04.2005 at about 12 pm due to the rash and negligent driving of Motorcycle bearing registration No.HR-02-M-3687 (hereinafter "the offending vehicle") being driven by respondent No.1,



owned by respondent No.2, and insured by respondent No.3. However, the learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties had concluded that the appellant had failed to establish that the present accident had taken place due to the rash and negligent driving of the offending vehicle by respondent No.1. Accordingly, although compensation was assessed by the learned Tribunal as Rs.1,20,000/-, however, in view of the findings on issue No.1, Claim Petition came to be dismissed.

3. It is inter alia submitted by learned counsel for the appellant that the findings returned by the learned Tribunal against the appellant with regard to issue No.1 are contrary to the evidence on record. Further, the learned Tribunal had failed to appreciate that due to the injury, the appellant has become permanently disabled. The appellant has spent more than Rs.1,50,000/- on his treatment and medicines. The appellant had remained admitted in Gaba Hospital from 06.04.2005 to 06.05.2005 where operation was conducted on the abdomen of the appellant and more than 12 bottles of blood were transfused. The appellant again remained admitted in Gaba Hospital from 12.05.2005 to 17.05.2005 and again surgery was conducted. The appellant had spent Rs.1,50,000/- on his treatment. It is accordingly prayed that the impugned Award be set aside and compensation be awarded to the appellant.



4. No other argument is made on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

5. A perusal of record of the case shows that in respect of the accident dated 06.04.2005, a Daily Diary Report No.26 dated 24.04.2005 was recorded at Police Post Buria Gate, Jagadhri (Ex.P58) on the basis of statement made by the appellant. It is to be noted that as per the said first version of the accident given by the appellant himself, the appellant had stated that:

A) The respondent No.1/driver was driving the offending motorcycle at controlled speed;

B) A child of about 8 years of age came in front of motorcycle of respondent No.1/driver;

C) The respondent No.1/driver tried to save the child;

D) The child was saved but offending motorcycle had struck against claimant's motorcycle;

E) the appellant has categorically mentioned in Ex.P58 that respondent No.1 was not at fault for this accident which has taken place by chance. The appellant has further categorically stated that he does not want any legal action against anybody.

6. To come out of the rigor of the above-said own statement, in the Claim Petition the appellant has contended that at time of making



statement dated 21.04.2005, he was under sedation of medicines and was lying in Gaba Hospital and that the said statement has been recorded by the Police by twisting the facts. It has further been averred that the accident had taken place due to the sole negligence of respondent No.1. However, even the abovesaid contention of the appellant that he was under sedation and his statement has been twisted by the police, is not borne out from the evidence on record as, in the Police proceedings, it is categorically mentioned that the Police had moved an application to the doctor concerned; whereupon the doctor had declared the claimant fit to make statement; whereupon the claimant statement dated 21.04.2005 came to be recorded and DDR No.26 came to be recorded.

7. Thus, the attempt of the claimant to retract his formal statement and now plead to the contrary to the effect that the accident in question had been caused due to the rash and negligent driving by respondent No.1 and that the Police had twisted the facts is without merit as the accident had occurred on 06.04.2005; and the appellant had made statement to the Police on 21.04.2005; on the basis of which DDR was lodged. Thus, statement was made by the appellant 15 days after the accident when he was declared fit by the doctor to make the statement.

8. Moreover, the appellant has not made any complaint to the higher Police authorities regarding any twisting of facts by the Officer concerned. Even further, the said allegation of twisting of facts has been



made by the appellant six months after the accident, at time of filing of the Claim Petition on 07.10.2005 for the first time. The falsity of the said claim made by the claimant is evident from the fact that the claimant has not even made any effort to get a criminal case registered against respondent No.1; nor has he moved any representation to any senior police officer for taking legal action against respondent No.1 for causing the accident dated 06.04.2005. Clearly therefore, the contrary pleas of the appellant are merely an afterthought with a view to procure the compensation.

9. The learned Tribunal has also given another finding of fact that the evidence of alleged eyewitness PW5 Sumit Singh is also extremely doubtful as, the name of Sumit Singh does not figure in the statement dated 21.04.2005. It would therefore appear that the said witness PW5 had been introduced only to erase the first version of events as narrated by the appellant to the Police on 21.04.2005.

10. Needless to say, the appellant cannot wriggle out or renege from his statement dated 21.04.2005 made to the Police by the claimant in the first instance on the basis of which DDR (Ex.P58) had been lodged. The appellant has not shown anything whatsoever to indicate that the appellant was not in a fit condition to make the statement of 21.04.2005. Rather, as noted above, the statement of the appellant was recorded on 21.04.2005 only after the attending doctor has certified in respect of his fitness to make the statement.



11. Furthermore, in respect of the injuries suffered by the appellant, the learned Tribunal has clearly recorded that *“The claimant has not suffered any disability due to the injuries suffered in this accident. So, he is not entitled to any amount of compensation on account of future loss of income.”*. Record bears out that in the accident dated 06.04.2005, the appellant had only sustained minor abdominal injury.

12. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.

13. In view of the above, present appeal stands **dismissed**.

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

06.05.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No