

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****218****FAO-2367-2018(O&M)****Date of decision: 23.04.2026****Manjul Saini****...Appellant(s)****Vs.****Sanjay & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Mamta Saini, Advocate
for the appellant.

Mr. Rahul Noorie, Advocate for
Mr. Abhimanyu Singh, Advocate
for respondents No.1 & 2.

Mr. Maninder Arora, Advocate
Mr. Harmeet Singh, Advocate
for respondent No.3.

Mr. D.K. Sharma, Advocate
for respondents No.4 & 5.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the injured-claimant laying challenge to the Award dated 05.11.2016 passed by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter 'the learned Tribunal') whereby MACT Case No.100 dated 27.05.2013 filed by the appellant under Section 166 of Motor Vehicles Act (hereinafter "the Act"), has been dismissed.



2. It was the pleaded case of the appellant before the learned Tribunal that the appellant had suffered injuries in a motor vehicular accident that took place on 08.11.2010 due to alleged rash and negligent driving of Tractor bearing registration No.HR-08K-1877 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3.

3. However, upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned Tribunal had concluded that the claimant had failed to prove on record that the accident in question which had resulted into multiple and grievous injuries to the claimant, was the outcome of rash and negligent driving of the tractor in question by the respondent No.1. Accordingly, the Claim Petition came to be dismissed.

4. It is inter alia submitted by learned counsel for the appellant that the learned Tribunal was in patent error in dismissing the Claim Petition as it failed to appreciate that it is irrevocably established on record that in the accident dated 08.11.2010, the appellant had suffered serious and grievous injuries with permanent disability of 80%; wherein left lower limb above knee of the appellant was amputated. Said disability is proved from the Disability Certificate (Ex.P23), which is proved from evidence of PW3 Dr. Anuj Mangla, SMO, General Hospital, Jagadhri, who has deposed that said Disability is not likely to improve and that the same is in relation to the whole body and not



of a particular limb. Learned counsel contends that therefore, a more sympathetic view ought to have been taken by the learned Tribunal.

5. It is further submitted that while dismissing the Claim Petition the learned Tribunal has wrongly relied upon the Cancellation Report (Ex.R-4) submitted by the SHO, Police Station Jathlana regarding cancellation of FIR No.106 dated 13.11.2010 which was registered against the respondents No.1 & 2 under Sections 279, 337 and 338 IPC. However, the appellant has specifically pleaded and brought on record before the learned Tribunal that the Cancellation Report has not been accepted by the learned trial Court rather in a private complaint filed by the appellant, the learned Magistrate vide order (Ex.P35) summoned the respondents to face trial under Section 279, 337 & 338 IPC. It was also brought to the notice of the Court that against the above-mentioned summons no revision was filed by the respondent No.1 which provide strength to the claim of the appellant. However, without appreciating the fact of the case, the Tribunal dismissed the Claim Petition.

6. It is further submitted that the law is well settled that in a road accident claim, the strict principle of proof in a criminal case is not attracted and the appellant is only to establish his case on the touchstone of preponderance of probability. Moreover, the appellant has duly proved on record the involvement of the offending motor vehicle in the accident on account of its being driven by its driver i.e. respondent No.1 in a rash and



negligent manner. Therefore, the impugned Award dated 05.11.2016 passed by the learned Tribunal is liable to be set aside on this score alone.

7. It is further submitted that the appellant was only aged about 17.5 years at the time of accident. The appellant has spent an approximate amount of Rs.10 lakh on his treatment. It is undisputed fact on record that the appellant is permanently disabled. Learned counsel argues that since the entire future of the appellant has been ruined on account of the injuries suffered by him due to the rash and negligent driving of the offending vehicle by the respondent No.1, therefore, the appellant is entitled to compensation to the tune of Rs.25 lakh along with 18% interest thereupon. However, the learned Tribunal has failed to appreciate this aspect of the matter. It is accordingly prayed that the present appeal be allowed and impugned Award be set aside.

8. Per contra, learned counsel for the respondents No.1 to 5 respectively oppose the submissions advanced on behalf of the appellant and submit that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

9. No other argument is made on behalf of the parties. 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.

10. The pleaded case of the appellant in the claim petition before the learned Tribunal as recorded in Para 2 of the Award is as follows: -



"2. The petitioner has filed the petition on the allegations that on the fateful day i.e. 8.11.2010, he was a pillion rider on the motor cycle bearing registration no. HR-02-W-6055, being driven by his father Gurseb i.e. respondent no. 4 and they were returning to their village from village Alahar after fetching medicines for him. It has been pleaded that at about 4-45/5 PM, when they reached near the tubewell of one Naurti Ram, on Alahar-Jaipur road, then a tractor trolley, make Swaraj-724, red colour, with disc harrow, attached thereto, being driven by respondent no. 1 was going ahead of them. It has been pleaded that the respondent no.1 was driving the said tractor in a rash, negligent, careless and zig-zag manner and when father of the claimant-petitioner, after giving due horn, was in the process of overtaking the said tractor, then, all of a sudden, respondent no. 1, in careless manner, brought his tractor in front of their motor cycle in such a manner that the disc harrow attached to the tractor struck against the left leg of the claimant. Due to which, both the motorcycle riders fell down on the road. The claimant-petitioner sustained grievous injuries on his left leg while his father i.e. respondent no. 4 sustained minor injuries. It has been pleaded that after causing the accident, respondent no. 1 stopped there for a while and he was identified by the claimant and his father and thereafter, respondent no. 1 slipped away from the place of accident along with his tractor, which was having no number plate at that time. It has been further pleaded that Hans Raj, uncle of the claimant was called at the spot, who in the company of father of the claimant, took the claimant/petitioner to J.P. Hospital, Yamuna Nagar from where, he was referred to PGI Chandigarh, however, he was



got hospitalized in Fortis Hospital, Sector 62, Mohali, where his left leg, near thigh, was amputated. It has been further pleaded that after his hospitalization in Fortis Hospital, Mohali for two days, the claimant-petitioner was got hospitalized in J.P. Hospital, Yamuna Nagar, where his statement was recorded by the police on 13.11.2010, on the basis of which FIR No. 106 dated 13.11.2010 under sections 279, 337, 338 IPC was registered in Police Station Jathlana, however, the same was subsequently cancelled by the police in connivance with the respondents no. 1 and 2.

It has been further pleaded that the claimant-petitioner was aged about 17½ years, studying in 12th standard at the time of accident and besides his study, he also used to give tuitions to other students and also used to render help in domestic and agricultural work of his father, thereby earning Rs. 3,000/-. It has been further pleaded that an amount of Rs. 10,00,000/- has been spent on the medical treatment of the claimant-petitioner and the injuries sustained in the accident led him permanently disabled.

It has been further pleaded that the accident in question took place by use of motor vehicles i.e. tractor make Swaraj-724, red colour, which was being driven by the respondent no. 1, as well as motor cycle bearing no. HR-02-W-6055, hence, all the respondents (being drivers), registered owners) and insurers) of the said motor vehicles are jointly and severally liable to pay compensation to the claimant-petitioner. Hence, the present petitions with a prayer that the present claim petition may kindly be accepted and respondents be directed to pay the compensation to the tune of Rs. 25,00,000/- along with



interest thereon from the date of accident till actual realization to the petitioner besides the costs of the proceedings in the interest of justice.”

11. In respect of the accident dated 08.11.2010, FIR No.106 dated 13.11.2010 under Sections 279, 337 and 338 IPC was registered at Police Station Jathlana on the statement made by the claimant himself. In the said FIR, same facts as stated in the claim petition in relation to the accident hereinabove were reiterated by the appellant.

12. It is very important to note that upon investigation, in the first instance, a Cancellation Report came to be filed in the above-said FIR. However, upon a Protest Petition filed by the complainant, respondent No.1 faced trial; whereupon respondent No.1 was acquitted by the learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhri vide judgment dated 23.10.2018 on the ground that contrary to the story put forth by the claimant/complainant, the defence had succeeded in proving on record that at the time of accident the motorcycle was being driven by the claimant himself in a rash and negligent manner, in which the eyewitnesses DW2 Ravi Kumar and DW3 Chandi had suffered injuries. DW2 and DW3 had duly proved their injuries before the learned CJM. Thus, contrary to the case set up by the claimant to the effect that at the time of accident, his father Gurseb Singh was driving the motorcycle, it was proved to be false and incorrect.



13. Besides that, even in the criminal trial, the prosecution was unable to prove any rash and negligent driving of the alleged offending tractor by the respondent No.1. Learned CJM also took note of the fact that there was an unexplained delay of 5 days in registration of the FIR. Accordingly, the respondent No.1 came to be acquitted vide judgment dated 23.10.2018.

14. Learned Tribunal had dismissed the Claim Petition of the appellant by taking into account the fact that the FIR was lodged by the injured-claimant against an unknown vehicle. The said FIR did not mention the registration number of the offending vehicle. Adverse inference has been drawn against the claimant that if Gurseb Singh, father of the claimant was eyewitness to the accident, then why was registration number of the alleged offending vehicle not disclosed. Moreover, there was delay in registration of FIR.

15. Furthermore, learned Tribunal took into account the fact that upon investigation, a Cancellation Report had been filed in the above-said FIR as during the course of investigation, respondent No.1/driver was found to be innocent. It was also revealed during investigation that two other persons namely Ravi Kumar and Chandi had also sustained injuries in the same road accident. The said two persons had appeared before the learned Tribunal as RW2 and RW3 and had categorically deposed that at the time of accident it was the injured-claimant himself who was driving his motorcycle at a high



speed and when he tried to cross the tractor then a car was seen coming from the opposite side; whereupon the appellant lost control and fell down at a distance ahead of the tractor and consequentially suffered leg injury. The said witnesses categorically stated that the motorcycle did not strike against any tractor nor any part of the tractor struck against the motorcycle being driven by the claimant. RW2 and RW3 also deposed that the respondent No.1 was at not fault at all for causing the accident.

16. Accordingly, upon a combined reading of the entire evidence, the learned Tribunal had concluded that it was the claimant who was driving the motorcycle with two pillion riders i.e. triple riding, and due to the sudden appearance of a car he lost control and fell down. The version given by RW2 and RW3 were found to be correct as the same was supported by documentary evidence in the form of Mark A and Mark B, both of which show that RW2 and RW3 had got medical treatment. Whereas, father of the appellant had not suffered any injury.

17. Furthermore, from the Cancellation Report (Ex.R4), as also from the judgment of acquittal dated 23.10.2018, it was clear that Gurseb Singh was not driving the motorcycle in question; and in fact he was not present at the time of alleged accident. The learned Tribunal had also observed that in case version put forth by the claimant/appellant was to be believed, then it would be highly improbable that Gurseb Singh PW6 would not sustain any injury. There was no evidence whatsoever on record to show that PW6 had



suffered any injury. Furthermore, there was no explanation given by the claimant for delay in registration of the FIR. Even further, as per own version of the claimant, his father/eyewitness had not sustained any serious injury. Therefore, he had ample opportunity to report the matter. However, Gurseb Singh failed to do so.

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

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

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

23.04.2026
Sunena

(Nidhi Gupta)
Judge

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