
(1990) ACJ 962

High Court Of Punjab And Haryana At Chandigarh

Case No: F.A.O. No. 836 of 1985

Major Prem Nath
Sehgal

APPELLANT

Vs

Jagat Mohan

RESPONDENT

Date of Decision: Nov. 24, 1989

Acts Referred:

- Motor Vehicles Act, 1939 - Section 110A

Citation: (1990) ACJ 962

Hon'ble Judges: G.R. Majithia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

G.R. Majithia, J.

F.A.O. No. 836 of 1985 was ordered to be heard along with F.A.O. No. 856 of 1985 (filed by Dr. B.D. Chugh). F.A.O. No. 856 of 1985 was disposed of by an order dated May 26, 1988, passed by G.C. Mital, J. in view of the settlement arrived at between the parties before the Lok Adalat. F.A.O. No. 836 of 1985 could not be disposed of and the same is being disposed of by this order.

2. Motor cycle bearing registration No. HRA 8181 was driven by Jagat Mohan, Sub-Inspector of Police (respondent No. 1) and the scooter bearing registration No. MHL 2641 was driven by Major Prem Nath Sehgal, appellant (and added as respondent No. 1 in F.A.O. No. 856 of 1985). Dr. B.D. Chugh (appellant in F.A.O. No. 856 of 1985) was the pillion rider of the motor cycle. Both the vehicles were involved in an accident on the road between Sectors 20 and 33, Chandigarh on November 18, 1982 between 11.00 a.m. and 11.25 a.m. In the said accident, some injuries were suffered by Dr. B.D. Chugh. Major P.N. Sehgal also suffered injuries and the scooter was also damaged. Dr. B.D. Chugh and Major P.N. Sehgal filed claim petitions u/s 110-A of the Motor Vehicles Act, 1939 (for short "the Act"). The Motor Accidents Claims Tribunal, Chandigarh (for short "the

Tribunal"), vide its award dated March 28, 1985, awarded a compensation of Rs. 28,000/- to Dr. B.D. Chugh as against Major P.N. Sehgal and the National Insurance Co. Ltd. besides interest at the rate of 10 per cent on the said amount from the date of the petition till realisation. Major P.N. Sehgal was held entitled to a total compensation of Rs. 15,600/-. However, the claim petition of Major Sehgal was dismissed by the Tribunal since findings on issue Nos. 1 and 2 were given against him.

3. The facts: Dr. B.D. Chugh in his petition averred that motor cycle bearing registration No. HRA 8181, driven by Sub-Inspector Jagat Mohan, was moving on the road between Sectors 20 and 33 on its way towards Ambala and he was the pillion rider. The road in question is the main road. Major P.N. Sehgal, who was driving scooter bearing registration No. MHL 2641, entered the main road all of a sudden from the road of Sector 20 at a fast speed and without giving any signal or horn. The scooter hit the motor cycle and as a result of the impact of the accident, both the vehicles and their riders fell down. Dr. Chugh suffered fracture of his left leg. It is averred by Dr. Chugh in his petition that the accident took place due to the rash and negligent driving of scooter by Major P.N. Sehgal.

4. In his petition Major P.N. Sehgal has averred that the accident took place because of rash and negligent driving by Sub-Inspector Jagat Mohan. He had crossed the middle of the road and was just near the divider of the road when, all of a sudden, the motor cycle driven by Sub-Inspector Jagat Mohan came from Chandigarh side at a fast speed and hit the scooter from behind with the front portion of the motor cycle. As a result thereof, the scooter and the rider were thrown on the divider of the road. He was removed to the Command Hospital, where he was given medical treatment. At the request of the police officials, he did not file any criminal case against Sub-Inspector Jagat Mohan and a writing was recorded which was signed by him and Sub-Inspector Jagat Mohan. He claimed a compensation of Rs. 1,25,000/- for the injuries sustained by him and Rs. 812.50 for the damage caused to his scooter. No criminal case was registered presumably because an official of the Police Department was involved in the accident.

5. In M.A.C.T. Case No. 10 of 1983, Dr. B.D. Chugh v. Major P.N. Sehgal, the insurance company took up the usual defences as were available. In M.A.C.T. Case No. 25 of 1983 Major Prem Nath Sehgal v. Jagat Mohan, the vehicle was not insured and only Sub-Inspector Jagat Mohan was added as respondent No. 1.

6. On the pleadings of the parties, the following issues were struck:

(1) Whether the accident took place because of rash and negligent act of the respondent?
OPP

(2) If issue No. 1 is proved, to what amount, if any, is claimant entitled as compensation?
OPP

(3) Relief.

7. Under issue No. 1 the Tribunal found that the accident took place because of negligence of Major P.N. Sehgal and not that of Sub-Inspector Jagat Mohan.

8. Under issue No. 2, the Tribunal found that Dr. Chugh was entitled to recover a sum of Rs. 28,000/- from Major P.N. Sehgal and National Insurance Co. Ltd. with interest at the rate of 10 per cent per annum from the date of filing of the petition till the date of realisation.

9. As observed earlier, no criminal case was registered at the instance of either of the parties to the lis and the Tribunal did not have the usual help of the first version given in the first information report, the site plan and the photographs taken on the spot. The claimants are the only witnesses to depose about the manner in which the accident took place.

10. Major P.N. Sehgal appeared as RW 2 in support of his claim. He stated that he was near the divider of road and his scooter had almost stopped when the motor cycle driven by Sub-Inspector Jagat Mohan came from his right hand side and hit the scooter in the rear. He deposed that he was thrown on the divider, from where he was carried to his nearby home and then to the Command Hospital.

11. Vehicles involved in the accident were not produced before the Tribunal and no evidence was led to prove as to which parts of the respective vehicles were damaged. The receipt produced by Major P.N. Sehgal does not indicate which portion of the scooter was damaged.

12. Dr. Capt. R.A. Singh, Command Hospital, Sector 12, Chandigarh appeared as RW 3. He deposed about the injuries suffered by Major P.N. Sehgal. According to him besides abrasions on right and left knees, left calf muscle, right elbow and left wrist, there was fracture of lower end of both bones of forearm. The witness could not give the exact disability. Major Sehgal spent Rs. 812.50 on the repair of his scooter, out of which Rs. 600/- were assessed as special damages. General damages were assessed by the Tribunal at Rs. 15,000/- and I do not find any irregularity in the conclusions arrived at by it. However, since the accident took place as a result of rash and negligent driving by Major P.N. Sehgal, he would not be entitled to receive compensation from the driver of the vehicle bearing registration No. HRA 8181.

13. S.I. Satnam Singh (RW 1) proved the Daily Diary Report (Exh. R-1). He deposed that he had investigated the case and after investigation recorded the D.D.R. He also deposed that Major P.N. Sehgal admitted that the driver of vehicle bearing registration No. HRA 8181 was not at fault. There is no material on the record to show that the statement before the police was not correctly recorded.

14. In these circumstances, I hold that Major P.N. Sehgal is not entitled to any compensation and his claim petition is declined.

15. For the reasons recorded *supra*, the appeal is dismissed.