

(2014) 05 P&H CK 0458

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 695 of 2001 (O&M)

Krishan Lal

APPELLANT

Vs

Sunder Singh

RESPONDENT

Date of Decision: May 7, 2014

Hon'ble Judges: Lisa Gill, J

Bench: Single Bench

Advocate: Vijay Pal, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Lisa Gill, J.

This appeal had been returned by the Lok Adalat on 13.08.2002 while observing that the finding of the Tribunal on the question of negligence in causing the accident is challenged in this appeal, therefore, it cannot be decided by the concurrence of the parties.

2. The claimant-appellant in this case has challenged the award dated 17.05.2000 passed by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as, the Tribunal") whereby the Tribunal has held that the claimant-appellant has failed to prove that he sustained injuries in an accident that took place on 28.11.1997 involving tractor-trolley bearing registration No. HR-08A-5958.

3. The appellant had filed claim petition alleging that on 28.11.1997, he was returning from his fields at about 11.00 AM, when a tractor-trolley bearing No. HR-08A-5958 came from behind at a fast speed being driven rashly and negligently by respondent No. 1 and hit the claimant-appellant. As a result thereof, he suffered fracture of backbone and became permanently disabled. He sought compensation of Rs. 5,00,000/-. The Tribunal has negated the claim of the appellant and has held that it could not be proved on record that claimant-appellant sustained the said injuries on account of an accident involving tractor-trolley bearing No. HR-08A-5958.

4. It is contended by learned counsel for the appellant that this finding of the Tribunal is erroneous and the claimant-appellant did, in fact, sustain the injuries in the said accident stated to have taken place on 28.11.1997.
5. I have heard learned counsel for the appellant and gone through the record of the case.
6. It has come on the record that no FIR was registered in this case against the erring driver. Reliance has been placed on an application Ex. P5 i.e., the complaint filed by the appellant for proceeding against the owner and the driver in this respect. The Tribunal has rightly observed that this application can be of no avail to the claimant as there is no evidence on the record to show that it was dispatched or the same was received in the office of the Superintendent of Police, Kaithal. Further, Ex. P3 i.e., the follow up and discharge card issued by the Post Graduate Institute of Medical Sciences, Rohtak records a history of fall qua the claimant. There is nothing on the record to show that the said injuries were caused in an accident involving the abovesaid tractor-trolley.
7. It is also urged on behalf of the claimant that even if it is accepted that the claimant was not hit by tractor-trolley and that he received the injuries while fixing the hook of the trolley with the tractor, he is still entitled to receive the compensation qua the respondents.
8. An attempt was made to project that the injuries could have been received while fixing the trolley with the tractor of respondent No. 2-Sher Singh. Apart from the fact that this has never been the case of the claimant, there is nothing on the record to show that the claimant was ever fixing the trolley to the tractor of respondent No. 2-Sher Singh. This averment is clearly misconceived and is rejected. The appellant cannot be permitted to turn around and take a new plea at this stage. The Tribunal has rightly held that the claimant-appellant has failed to prove the causation of the injuries on account of any accident involving tractor-trolley bearing No. HR-08A-5958.
9. In view of the above, there is no question of going into the quantum of compensation to be awarded to the appellant.
10. Keeping in view the above facts, this appeal fails and is dismissed, accordingly.