



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**FAO-4335-2012(O&M)
Date of decision: 24.07.2025**

Sanjeev Kumar

...Appellant(s)

Vs.

Avtar Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. R.C.Gupta, Advocate for the appellant.

Mr. J.S.Cooner, Advocate for respondent No.2.

Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Co.

NIDHI GUPTA, J.

CM-18892-CII-2012

Present application has been filed under Section 5 of the Limitation Act r/w Section 151 CPC for condonation of delay of 6 days in filing the appeal.

Heard.

In view of the averments mentioned in the application which is duly supported by an affidavit of the applicant/appellant, the same is allowed and the delay of 6 days in filing the appeal is condoned.

FAO-4335-2012(O&M)



The present appeal has been filed by the injured- claimant against the dismissal of his claim petition No. 102 dated 17.02.2010 filed under Section 166 of the Motor Vehicles Act, 1988 by the learned MACT, Patiala (hereinafter 'the Tribunal'), vide Award dated 16.04.2012.

2. It is the pleaded case of the appellant before the learned Tribunal in the claim petition that on 13.06.2009, claimant/ Sanjeev Kumar was coming back to his house after morning walk. He was walking on the correct left-hand side of the road on the katcha berm. At about 6.00 A.M, when he reached near Temple within the area of village Dhanaura, District Ambala, Sadhaura to Mullana Road, in the meantime, truck bearing registration No. HR-46-9503 (hereinafter 'the offending vehicle'), came from behind. Respondent No. 1 Avtar Singh was driving the said truck, rashly and negligently. He brought the truck on the extreme left side of the road on katcha portion and hit Sanjeev Kumar from behind. As a result of this accident, Sanjeev Kumar fell down and his both legs were crushed under the left side of wheels of the truck, besides other multiple injuries. The accident was also witnessed by Naveen Kumar. The accident had taken place, solely on account of rash and negligent driving of Truck bearing No. HR-46-9503 by respondent No. 1. However, the Tribunal vide impugned Award had dismissed the claim petition of the appellant on the ground that *"the involvement of the truck bearing No. HR-46-9503 and the respondent no. 1, as such, does not stand established."*



3. It is *inter alia* submitted by learned counsel for the appellant that the appellant had suffered very grievous injuries in the motor vehicular accident that occurred on 13.06.2009 due to the rash and negligent driving of the offending Truck bearing registration No. HR-46-9503 being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. It is submitted that the appellant was only 18 years old at the time of accident. He was student of class 10. Due the injuries suffered by him, the appellant had suffered amputation of right lower limb with debridement and procedure for applying fixator on left leg was conducted on 14.06.2009. As infection set into the left leg, therefore even amputation of left leg was conducted. The appellant was discharged from the hospital on 18.08.2009. Appellant had suffered 100% permanent disability. It is very earnestly and vehemently submitted by learned counsel for the appellant that in view of these facts, the accident in question stands proven. As such, claim petition of the appellant could not have been dismissed. Injuries suffered by the appellant stand proven from the comprehensive evidence led by the appellant. Thus, the learned Tribunal was in patent error in dismissing the claim petition of the appellant.

4. It is submitted that the claim petition has been dismissed only on the ground that the respondent-Insurance Company in its written statement had denied its liability on the basis of alleged collusion between the claimant and respondents No.1 and 2. It is submitted that the same is purely conjectural and does not constitute sufficient ground for denial of



relief to the appellant who had suffered tremendously in the accident in question. It is accordingly prayed that the present appeal be allowed; and impugned Award dated 16.04.2012 be set aside.

5. The submissions made by the appellant are vehemently opposed by learned counsel for the respondent-Insurance Company. Learned counsel points out that there are glaring discrepancies in the case put forth by the appellant; and the same have been rightly disbelieved by the learned Tribunal. It is submitted that the claim petition was filed by the appellant in collusion with respondents No.1 and 2 purely with a view to get compensation from respondent No.3; and that in actual fact there was no involvement of the alleged offending vehicle. It is accordingly submitted that the claim petition has been rightly dismissed and prays that the present appeal be also dismissed.

6. No other argument is raised on behalf of the parties.

7. I have heard Id. counsel and perused the case file in detail.

8. I have given my very thoughtful consideration to the submissions made on behalf of the parties. No doubt, the appellant has suffered grievous injuries in the accident in question. However, in view of the irrevocable evidence on record, the involvement of the alleged offending vehicle is not proven. The case put forth by the appellant has already been noticed herein above. The accident had taken place on 13.06.2009. FIR No. 70 was registered on 14.06.2009 against respondent No.1 on the statement made by the appellant. In the FIR Ex.RW1/A, neither the number of the



offending vehicle nor the name of its driver is mentioned. There is no explanation as to why this is so. Further, as per the claimant, the accident was witnessed by Naveen Kansal PW7. Yet, there is no reason forthcoming as to why, despite being eyewitness, FIR was not registered by PW7; especially given the grievous nature of injuries suffered by the appellant. Further, if accident was witnessed by PW7, why was information regarding the offending vehicle and the respondent No.1 not shared by PW7 with the claimant or the police authorities? Notwithstanding the above facts, the alleged eyewitness to the accident PW7 in his affidavit Ex.PW7/A has also stated that the accident was caused due to rash and negligent driving of the Truck bearing registration No. HR-46-9503. There is nothing on record to indicate how this information regarding the offending vehicle came into possession of the appellant and PW7. Even further, the collusion between the appellant and the respondents is evident from the fact that respondents No. 1 and 2 have admitted the occurrence of the accident in their written statement; while denying any negligence on their part.

9. The learned Tribunal has noted in the impugned Award that the claimant has led much emphasis on Avtar Singh/respondent no.1/driver of the offending vehicle, facing criminal trial. However, Avtar Singh stands acquitted in the criminal trial. This fact is not denied by learned counsel for the appellant that respondent No. 1 has been acquitted in the criminal trial in FIR No. 70 dated 14.06.2009 by the Judicial Magistrate 1st Class, Ambala by way of judgment dated 03.04.2014. Copy of the said judgment is handed



over in Court today, which is taken on record. Perusal of the said judgment shows that it was the case of the appellant therein that the accident was witnessed by one Ram Lal. It is recorded therein that *“So far as the testimony of the complainant is concerned, neither has he deposed anything against the accused nor has he mentioned the registration no. of the offending vehicle. Though, he has testified that Ram Lal witnessed the alleged accident but the prosecution has not examined the said person as a witness.”* In contradiction of the said version given by the appellant/claimant in the criminal trial, before the learned Tribunal, the accident is alleged to have been witnessed by Naveen Kansal PW7. There is also major discrepancy in the statement of the claimant *in-as-much* as at one point, it has been stated by the claimant that he had disclosed about the name of the driver and the particulars of the Truck after 15-20 minutes of the accident. Simultaneously, claimant has admitted in his cross-examination that till date, he had not disclosed the number of the Truck to any authority nor disclosed the name of driver. PW7 Naveen Kansal had stated that he had got recorded the statement about 1 and a half month after the accident. It appears that therefore the said witness is a planted. From the above facts, it would appear that the claim petition has been filed by the appellant in collusion with respondents no.1 and 2.

10. Therefore, no ground to interfere in impugned Award dated 16.04.2012 is made out. The present appeal is hereby **dismissed**.

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



24.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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