2025:PHHC:108347

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120 **FAO-4928-2025 (O&M)**
Date of decision: 19.08.2025

DEEPAK KASHYAP AND ANOTHER **.... APPELLANTS**

VERSUS

SUBHASH CHAND **....RESPONDENT**

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. M.S. Virk, Advocate for the appellants.

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PARMOD GOYAL, J. (Oral)

CM-16119-CII-2025

1. This is an application under Section 5 of the Limitation Act for condonation of delay of 34 days in filing the appeal.

2. For the reasons mentioned in the application, the same is allowed and the delay of 34 days in filing the appeal is hereby condoned.

FAO-4928-2025 (O&M)

1. Learned counsel for the appellants has challenged the finding of the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'Tribunal'), whereby the appellant-driver and the owner respectively were held jointly and severally liable to pay compensation of ₹3,68,000/- to claimant Subhash Chand and ₹37,300/- to claimant Deepak Kumar on account of injuries sustained by Subhash Chand and on account of damage to vehicle of claimant-Deepak Kumar in accident dated 02.04.2016, having been caused by rash and negligent driving by appellant No.1-driver of car, bearing Registration No.UA-07-9800. Learned Tribunal duly

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recorded finding of negligence on the part of the driver. Aggrieved by the said finding, both driver and owner have approached this Court by way of present appeal.

2. I have gone through the judgment of learned Tribunal and evidence led by parties. Learned Tribunal has rightly appreciated the evidence led by both the parties.

3. In the present case, the accident was duly witnessed by both the claimants i.e. Deepak Kumar and Subhash Chand. The motorcycle was being driven by Subhash Chand and Deepak Kumar was pillion rider. Subhash Chand had suffered multiple injuries and was admitted to hospital. Both the claimants had appeared as PW1 and PW2 respectively before the Tribunal and have asserted the manner of accident as was stated by them while lodging FIR No.36 dated 03.04.2016 under Sections 279, 337 and 427 IPC registered with Police Station Khizrabad.

4. Perusal of evidence of both the claimants and the contents of FIR reveals that the manner of occurrence detailed in FIR is fully consistent with the statements made by PWs. It is also worth noticing that FIR was lodged promptly on 03.04.2016 regarding the accident having occurred on 02.04.2016.

5. Immediately after the accident, injured Subhash Chand was admitted in hospital from where ruqqa was sent to Police and upon receiving the ruqqa, the Police visited hospital and recorded the statement of injured upon which FIR was lodged. Therefore, the conclusion drawn by learned Tribunal that there was no delay in lodging the FIR, cannot be faulted with. The evidence of appellants is consistent and nothing could be shown before

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the Tribunal or before this Court as to doubt the authenticity of their statements.

6. In the present case, the appellant No.1 i.e. driver of offending car had duly appeared as DW-1. However, his evidence is of no help to the case of the appellants, as admittedly, defendants have merely denied their involvement in the accident.

7. It is worth noticing that FIR was lodged against the appellant No.1, driver on 03.04.2016 and thereafter, he was challaned for causing accident due to rash and negligent driving. Till filing of written statement and his appearance before the Court, the appellant driver had never contested his involvement in the accident. He kept mum during the investigation and has never made a complaint to any authority regarding his alleged false implication. Upon considering the evidence of PW-1 and PW-2, which is further corroborated by the prompt lodging of the FIR, as well as by investigation conducted by the Investigating Officer that culminated in the filing of the challan against the appellant No.1 driver, it is evident that the learned Tribunal has rightly relied on the testimonies of PW-1 and PW-2. On the other hand, the self-serving denial by the appellant No.1 driver regarding his involvement in the accident lacks credibility. Therefore, the learned Tribunal was justified in rejecting the claim of the appellants and in accepting the consistent and corroborated version of the claimant's witnesses.

8. Faced with the above, learned counsel for the appellants has tried to argue that the present case is of contributory negligence as the accident was head-on collision.

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9. However, I do not find any merit in the contentions raised on behalf of the appellants for a simple reason that the appellants themselves have denied their involvement. They have not alleged as to how the respondent-Subhash Chand (deceased), who was riding the motorcycle, had contributed in any manner in causing the accident. On the other hand, both PW-1 and PW-2 have specifically stated in their evidence that it was appellant No.1-driver who was driving his car in a rash and negligent manner and had caused the accident. Neither from evidence of claimant nor from evidence of appellants it could be shown by appellants as to how Subhash Chand contributed in causing accident. In view of evidence led by the claimants, no conclusion can be drawn regarding contributory negligence on the part of the claimant-Subhash Chand who was driving ill fated motorcycle.

10. To conclude contributory negligence, it is mandatory for the Courts to record that both the parties have contributed in causing the accident. However, in the present case, the evidence is otherwise. The accident had occurred on account of sole rash and negligent driving of offending driver i.e. appellant No.1

Learned counsel for the appellants has also tried to argue and challenge award of compensation by claiming it to be excessive. However, after going through the evidence as well as findings of learned Tribunal, it is clearly made out that chunk of compensation is dependent upon medical bills and receipts, which the claimant has placed on record. Compensation of ₹2,58,000/- out of ₹3,68,000/- has been granted on account of various hospital bills and receipts regarding medicines. Therefore, the same cannot

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be claimed to be in excess, in absence of any rebuttal on behalf of the appellants.

11. Similarly, compensation under the head of pain and suffering, attendant charges, special diet, transportation and loss of income as awarded by learned Tribunal, cannot be held to be excessive especially in view of the fact that respondent had remained hospitalized and had suffered fracture of right shaft of femur. He remained admitted in hospital from 02.04.2016 to 27.04.2016 on one occasion, and again, he was admitted in hospital on 11.05.2016, and was discharged on 13.05.2016.

12. From the facts duly noticed by learned Tribunal, the amount granted to the claimant cannot be held to be excessive.

13. In view of the above facts and circumstances, the present petition is devoid of merit and is hereby dismissed.

14. Pending miscellaneous application(s), if any, stands disposed of.

(PARMOD GOYAL)
JUDGE

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Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*

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