



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
226 **FAO-6157-2015 (O&M)**
Date of decision: 04.03.2025

Pawandeep Singh

...Appellant(s)

Vs.

Randeep Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Amaninder Preet, Advocate
for the appellant.

Mr. Sandeep Sharma, Advocate
for respondent No.4.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant against the Award dated 04.03.2015 passed by the Motor Accident Claims Tribunal, Moga dismissing the claim petition MACP No.111/2013 filed by the appellant under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries received by the claimant in the motor vehicular accident that took place on 19.08.2010 at about 6 pm due to the alleged rash and negligent driving of the motorcycle No.PB-56B-0929 (hereinafter referred to as 'the alleged defending vehicle'), being driven by respondent No.3, owned by respondent No.4, and insured by respondent No.5.

2. Brief facts of the case as set out by the appellant/injured-claimant in the claim petition are that on 19.8.2010 at about 6pm, the claimant along with his friend Randeep Singh (respondent no.1) was going to Peer Nigaha, Baghapurana. Respondent no.3 came on his



motorcycle and struck the same with the motorcycle of the claimant, as a result of which, claimant and his friend received injuries on legs. The father of the claimant took him to Satish Goyal Hospital Moga, who referred him to Dr. Prem Hospital Moga, who further referred the claimant to Om Jindal Hospital Ludhiana, from where he was referred to Bassi Hospital Ludhiana. The claimant remained admitted in Bassi Hospital Ludhiana for 18 days, where he was operated upon eight times and the leg of the claimant was amputated. Then, he was again sent to Dr. Prem Hospital Moga, where he remained admitted for 1½ month. His leg was again damaged and Dr. Prem sent him to GGS Medical College & Hospital Faridkot, where leg of the claimant was cut down above the knee. The claimant has become 80 per cent disabled due to this accident. He is still under medical treatment and his future has become dark. FIR No.74 dated 29.7.2011 was got registered at police station Baghapurana. It was further pleaded that the injured was 18 years old at the time of accident. An amount of Rs. 1,88,000/- was spent on his treatment. The prospects of his marriage have become dark due to amputation of the leg. Thus, in such circumstances, claimant is entitled for compensation to the tune of Rs.10 Lakh and medical expenses to the tune of Rs. 1,88,000/- along with interest @ 24 per cent per annum.

3. Learned counsel for the appellant submits that the learned Tribunal is in patent error in dismissing the claim petition as admittedly, the accident in question stands proven; the injuries suffered by the appellants are proven on record; and it is also proven that an FIR was



registered in respect of the accident in question. It is submitted that despite the above admitted facts on record yet claim petition of the appellant has been dismissed. It is submitted that the reasons given by the learned Tribunal in the impugned Award do not bear scrutiny. The learned Tribunal has failed to appreciate that in the accident in question the appellant has suffered grievous injuries inasmuch as even leg of the appellant was amputated. The appellant remained admitted in hospital for 18 days and was operated 8 times by the doctor. It is accordingly prayed that the impugned Award be set aside being based on conjectures and surmises.

4. Per contra, learned counsel for respondent No.4 opposes the prayer made on behalf of the appellant and submits that the impugned Award suffers from no infirmity. It is submitted that at the time of alleged accident, the respondent No.4 was not owner of the motorcycle No.PB-56B-0929 as he had purchased the said motorcycle after the alleged occurrence. The averments made in the claim petition were accordingly denied for want of knowledge. It is accordingly prayed that the present appeal be dismissed.

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

6. I have heard learned counsel for the parties and perused the case file in great detail.

7. Relevant part of Award dated 04.03.2015 passed by the learned Tribunal is as under:-

“7. The burden of proof of this issue was upon the claimant and in order to discharge the same, claimant Pawandeep Singh himself stepped in the witness box as PW1. By way of affidavit,



he stated in his examination-in-chief that on 19.8.2010, at 6pm, he along with his friend Randeep Singh was going from Baghapurana to Peer Nigaha on Mudki road to pay obeisance. At that time, Gurmail Singh (respondent no.3) came on his motorcycle bearing No.PB-56-B-0929 from the side of Peer Nigaha at a very high speed, by driving the motorcycle rashly and negligently and struck his motorcycle against their motorcycle. The speed of the motorcycle of Gurmail Singh was 80/90km per hour and it was not in his control. On account of the impact of the accident, he received injury on his thigh and his friend Randeep Singh also received multiple injuries. Both of them started crying on receiving the injuries in this accident. He further stated that the offending motorcycle bearing No.PB-56-B-0929 is owned by Harbans Singh (respondent no.6). He informed his father on telephone. His father took him to Satish Goyal Hospital, Moga, who refused for his treatment. Thereafter, his father took him to Prem Hospital Moga, from where he was referred to Omi Jindal Hospital, Ludhiana, who further referred him to Bassi Hospital Ludhiana, where he remained admitted for 18 days and he was operated for eight times by the doctor. The above testimony of claimant Pawandeep Singh is silent with regard to the fact that who was driving the motorcycle on which he was riding. He is totally silent whether he was the driver or the pillion rider. He is also silent that the driver of the motorcycle on which he was traveling was being driven at a slow speed and with due care and caution by its driver. The entire statement has been given that he along with his friend Randeep Singh were going from Baghapurana to Peer Nigaha, when Gurmail Singh struck his motorcycle bearing No.PB-56-B-0929 against their motorcycle. Even, FIR was not got registered on the day of alleged accident



or on the next day. Rather, application for registration of the FIR was moved before the Senior Superintendent of Police after a period of about six months. No reason has been given why the claimant or his father remained mum for such a long period, if the accident had occurred due to rash and negligent diving of the motorcycle No.PB-56-B-0929 by Gurmail Singh respondent. The documentary evidence on the file reveals that the claimant was minor on the alleged day of accident. It appears that he received injuries due to his own negligence and due to this act, he or his father did not take any step to get register the FIR for a period of six months. Even, this is the reason that claimant neither in his pleadings nor in his testimony has disclosed that who was driving the motorcycle on which he was traveling, which fact was very much necessary to determine that who was at fault for causing the accident as alleged by the claimant. The conduct of the claimant and of his father of remaining silent for a period of six months and they not disclosed that whether the claimant was driver or pillion rider, draws an adverse inference that the accident in question, if any, took place due to the negligency of the claimant himself. He was even minor at the time of alleged accident. If claimant or his friend Randeep Singh would have been driving the motorcycle at slow speed and with due care and caution, this fact would have been mentioned by the claimant in his pleadings as well as in his testimony, instead of suffering a vague statement.

Further, conduct of respondents Randeep Singh and Gurmail Singh reveals that the claim petition is collusive one. In his written statement, Randeep Singh has denied the accident as well as involvement of his motorcycle. He took the specific plea that no alleged accident occurred with the vehicle of the



answering respondent. He was not present at the time of alleged accident and he has been dragged in this litigation unnecessarily. Respondent no.4 Sarabjit Singh has taken the plea that he purchased the offending motorcycle after the occurrence. He did not disclose the name of the person from whom he purchased the offending motorcycle and on which date. Even both the contesting respondents did not dare to step into the witness box. Rather, they tried to help the claimant by remaining silent. Even, clerk from the office of District Transport Officer was not called to show who was the registered owner of the alleged offending motorcycle at the time of accident. The conduct of the claimant and of the contesting respondents coupled with circumstantial evidence speaks that no such accident took place as alleged by the claimant on account of negligency of the offending motorcycle. Therefore, I decide this issue against the claimant and in favour of the respondents.”

(Emphasis added)

8. The above findings of the Id. Tribunal are serious and incriminating. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.

9. In view of the above, present appeal is **dismissed**.

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

04.03.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No