

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****254****FAO-917-2022 (O&M)****Date of decision: 20.02.2025****Rahul****...Appellant(s)****Vs.****Sunil & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Akshay Jindal, Advocate
for the appellant.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant against the dismissal of his claim petition by the Motor Accident Claims Tribunal, Gurugram vide impugned Award dated 22.12.2021 passed in claim petition bearing MACT case No.61-A of 09.07.2017 filed under Section 166 of the Motor Vehicles Act, 1988.

2. The case of the claimant as pleaded in the claim petition is that on 8.7.2017 at about 7.30 P.M., he was going on foot on under constructed KMP road when the offending motorcycle bearing registration No.HR-76D-7896 (hereinafter referred to as 'the alleged offending vehicle'), being driven by respondent No.1 at high speed and in a rash and negligent manner, came from behind and hit him from back side. As a result of the accident, the appellant fell down and sustained multiple injuries including head injury. The offending motorcycle also fell down. Sudarshan s/o Sajjan Singh and Rattan Singh s/o Sher Singh



witnessed the accident and noted its registration number. It has further been alleged that while the eyewitnesses were taking care of the injured, the driver of offending motorcycle fled away from the spot along with the motorcycle. After some time Monu @ Manoj, brother of injured came to the spot and shifted him to hospital for treatment. FIR No.332 dated 11.7.2017 u/s 279, 337, 338 IPC was registered at Police Station Manesar on the statement of eyewitness Sudarshan.

3. Learned counsel for the appellant vehemently argues that the learned Tribunal is in patent error in dismissing the claim petition of the appellant on the spurious ground that there was delay of 3 days in registration of the FIR. It is submitted that the FIR cannot be doubted as the same has been registered on the basis of statement made by eyewitness. It is contended that it has been held in numerous judgments by Co-ordinate Benches that mere delay in registration of FIR will constitute no ground for denial of compensation to the claimant. Moreover, the case of the appellant has been duly proven before the Id. Tribunal by the unshattered testimony of the appellant as PW1, and two other witnesses namely Sudarshan (PW2) and Ratan Singh (PW3). Even in the FIR, final report has been submitted against respondent No.1/driver of the offending vehicle. It is accordingly prayed that the dismissal of the claim petition by the learned Tribunal was patently erroneous and deserves to be set aside.

4. Heard.



5. I find no merit in the submission made on behalf of the appellant. The above contention of the appellant to the effect that the claim petition has been dismissed merely on ground of delay in registration of FIR, is incorrect. A perusal of the impugned Award reveals that in dismissing the claim petition, the learned Tribunal also took into account the fact that as per the first version of accident as given by the appellant himself as recorded in the MLR Ex.R2, the appellant has stated that: "*alleged history of RSA - skid and fall from bike*". The said MLR was recorded in the presence of HC Udaybir Singh no. 1619. The Discharge Summary Ex. R1 of the appellant also records the same cause of accident.

6. The learned Tribunal also took note of the fact that one of the eye witnesses and also author of the FIR, namely, Sudarshan (PW2), is a retired Assistant Sub-Inspector and is a resident of the same village as the appellant. It was therefore, incongruous and unexplained that despite being an eyewitness and retired police officer, PW2 did not inform the police immediately after the accident, but recorded his statement to the police only on 11.7.2017 in Aarvy Hospital. The Id. Tribunal accordingly held that no doubt, the appellant had sustained injuries. However, the same was not by being hit by the offending vehicle from behind as alleged, but due to the fact that the appellant had himself fallen from the bike; and that the real version regarding the occurrence had been concealed by the appellant; and that the injuries suffered by the appellant were not an account of negligent driving of the offending vehicle by



respondent no.1, but had occurred as the appellant himself fell from the bike he was riding. Nothing has been shown to this Court by the learned Counsel for the appellant to discredit the above findings.

7. It is also necessary to point out that although it has not been argued/mentioned before this Court, however, a perusal of the file reveals that it has been alleged by the claimant that in the accident in question, the appellant had suffered paralytic attack in one hand and one leg and he had remained on ventilator for 21 days. In total, the appellant is stated to have remained in hospital for one month and had become permanent disability and is unable to do his routine work. Needless to say, if this were true and correct, there would be voluminous medical evidence to establish the above assertions. However, even no evidence whatsoever has been referred to in this regard. On the contrary, it has come on record that after the accident on 8.7.2017 at about 7:30 PM, the appellant had first been admitted in Rockland Hospital. However, the appellant had left Rockland Hospital on 11.7.2017 without any medical advice; whereafter, he is shown to be again admitted in Aarvy Hospital but unfit for statement. Even if that is accepted, there is yet no explanation as to why during this time, the FIR could not have been registered by anybody else, including Monu, brother of injured Rahul, or alleged eyewitnesses Sudarshan or Rattan Singh, who belong to the same village as the appellant.



8. Ld. Counsel for the appellant is unable to dispute or controvert or explain the above said facts and findings.
9. In view of the above, the present appeal is **dismissed**.
10. Pending applications, if any, stand disposed of.

20.02.2025
Sunena

(Nidhi Gupta)
Judge

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