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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219 **FAO-4218-2011 (O&M)**
Date of decision: 21.01.2025

Gurjeet Singh

...Appellant(s)

Vs.

Paramjit Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Saurabh Bahmani, Advocate for
Mr. M.S.Longia, Advocate for the appellant.

Mr. Maninder Arora, Advocate with
Mr. Harshit Singla, Advocate for the
respondent-Insurance Co.

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NIDHI GUPTA, J.

The injured-claimant is in appeal before this Court against the order dated 09.02.2011 passed by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as "the learned Tribunal") whereby the claim petition bearing MACT Case No.84 dated 07.11.2008 filed by the appellant under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"), had been dismissed.

2. Learned counsel for the injured-claimant/appellant submits that the claim petition of the appellant has been wrongly dismissed as the appellant had led cogent evidence on record to show that he had suffered grievous injuries in the Motor Vehicular Accident that took place on 5.7.2008 due to the rash and negligent driving of the Maruti Van bearing No. PB-12-J-4481 (hereinafter referred to as "the

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vehicle") being driven by respondent No.1, owned by respondent no.2, and insured by respondent no.3. It is submitted that the learned Tribunal failed to appreciate that the appellant was of very good health and was a hard-working boy getting salary of Rs.3,500/- p.m. The appellant also used to do business of dairy farming after coming back from his job. The appellant also had 3 acres of land where he used to help his father in agriculture. As such, his additional income from dairy business and agriculture was about Rs.7,000/- p.m. However, now due to grievous injury suffered by the appellant, he is unable to work. The appellant was only 20 years old at the time of accident. The appellant spent approximately Rs.1,35,000/- on his treatment, transportation, special diet etc. However, in dismissing the claim petition of the appellant, the ld. Tribunal has failed to appreciate these facts. It is accordingly prayed that the impugned order be set aside.

3. *Per contra,* learned counsel for the respondent No.3/insurance company opposes the prayer made on behalf of the appellant and submits that the learned Tribunal had found that the appellant and respondent No.1 had 'borrowed' the vehicle from the owner/respondent no.2. As such, they did not fall in the category of "3rd party" qua respondent No.1/driver. It is further submitted that there is nothing on record to indicate that the appellant had suffered any injury in the accident in question. It is accordingly prayed that the present appeal be dismissed.

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

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5. I have heard learned counsel for the parties.

6. Perusal of the record of the case shows that the appellant had filed a claim petition claiming compensation of Rs. 20 lacs alongwith interest @ Rs.18% p.a. for the alleged injuries suffered by him in a Motor Vehicular Accident that took place on 05.07.2008 due to the alleged rash and negligent driving of the vehicle by respondent No.1. The learned Tribunal, on the basis of the pleadings, as well as the oral and documentary evidence led by the parties gave a clear finding that the necessary ingredient required under Section 166 of the Act i.e. 'negligence' was not proved by the claimant as it was not established on record that the respondent No.1 was driving the vehicle in a rash and negligent manner. Furthermore, it is admitted on record that the appellant was working in the company of respondent No.2 who was the owner of the vehicle, and the appellant and respondent No.1 were travelling in the said vehicle. As such, it has been correctly held by the learned Tribunal that the appellant and respondent No.1 had stepped into the shoes of respondent No.2 i.e. the owner, by borrowing the vehicle. Therefore, they could not be considered as "3rd party" for the purposes of grant of compensation, and, were therefore correctly held not entitled to compensation.

7. It has further been repeatedly claimed by the appellant that he had suffered grievous injuries in the accident in question. However, there is not a smidgen of evidence on record to remotely indicate that the appellant had suffered even minor injuries, let alone

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grievous injuries. Admittedly, even the said minor injuries which were compensated for by the owner of the vehicle/respondent No.2 and the medical expenses of about Rs.20,000/- were stated to have been paid by respondent No.2. This fact has not been denied by the appellant.

8. Learned counsel for the appellant is unable to dispute or controvert the above said findings that: a) no negligence is made out on the part of respondent No.1; b) that it is not denied that the appellant and respondent No.1 were the borrowers of the vehicle in question; c) therefore, no claim for compensation lies against respondent No.2 or respondent No.1; or d) anything to show that the appellant had suffered any injuries in the accident in question.

9. Keeping in view the above facts as noted above, the present appeal is **dismissed**.

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

21.01.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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