
(2014) 03 P&H CK 0076
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 2208 of 1999 (O&M)

Hari Chand

APPELLANT

Vs

Chattar Singh

RESPONDENT

Date of Decision : 20-03-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2014) 2 RCR(Civil) 987

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : Lokesh Sinhal, Advocate for the Appellant; Suvir Dewan, Advocate for Respondent No. 2, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Jitendra Chauhan, J.—This is claimants' appeal challenging the impugned award dated 28.08.1998, passed by the learned Motor Accident Claims Tribunal, Faridabad, (for short, "the Tribunal"), whereby, their claim petition has been dismissed. The learned counsel for the appellants contends that negligence is not sine qua non for claiming compensation under the Motor Vehicles Act. Even if the claimants did not plead negligence qua the respondent-driver, they would be entitled to the compensation.

2. On the other hand, the learned counsel for the respondent-insurance company contends that the claimant-Hari Chand did not attribute any negligence to the driver in the DDR, Ex. PW 2/A, or in his statement made in the Court.

3. I have heard learned counsel for the parties and perused the record.

4. In the instant case, the claim petition was filed u/s 166 of the Motor Vehicles Act, which casts a liability upon the claimants to prove that the accident took place due to the rash and negligent driving of the offending vehicle by its driver. Claimant-Hari Chand, lodged DDR, Ex. PW. 2/A, wherein, it is specifically mentioned that there was no fault of the respondent-driver in causing the

accident resulting into the death of his son. Admittedly, Hari Chand is the brother-in-law of driver-Chattar Singh. Even while appearing as PW-3, he did not state that the accident took place due to the rash and negligent driving of respondent No. 1. Therefore, the learned Tribunal has rightly dismissed the claim of the appellant as they failed to discharge the initial burden of proving the factum of rash and negligent driving of the offending vehicle by its driver and in the considered opinion of this Court, no interference is warranted therein. Resultantly, the present appeal is hereby dismissed.