
(2013) 02 P&H CK 0124
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 1368 of 2010

Palada Ram

APPELLANT

Vs

Sohan Lal and Others

RESPONDENT

Date of Decision : 04-02-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 163

Citation : (2013) 02 P&H CK 0124

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : R.K. Agnihotri, for the Appellant; Vishal Aggarwal, for the Respondent

Final Decision : Dismissed

Judgement

K. Kannan, J.—The appeal is against the dismissal of the petition for compensation filed before the Tribunal. The Tribunal has found that the petitioner has not established the involvement of the insured's vehicle in the motor accident. The case was rested on the evidence of petitioner himself that the accident had taken place on 04.09.2007 when he was crossing the main GT road at the village Uchani. It was an admitted case that no complaint was registered immediately after the accident. There is no difficulty in accepting the evidence that the injuries, which the petitioner suffered was on account of a motor accident and the earliest entry in the MLR maintained by the Government hospital clearly showed that he was a victim of road side accident. The Tribunal rejected the petitioner's claim on the following fallibilities in the quality of evidence brought before the Tribunal. The vehicle, which was involved in the accident was a Scorpio vehicle bearing No. HR-37B-5325. In the cross-examination of PW-1 namely the claimant, he had stated that he had not noticed the registration number of the vehicle. He could not give the make or mark of the vehicle. The police had admittedly taken a statement from the claimant and before the police, he had stated that a black Qualis car had hit him. The Tribunal made an issue about inconsistency in the make of the car. I am not prepared to

see this as a very grave defect but if there is any credible evidence that could connect the black Scorpio car bearing particular number as being involved in the accident, I would not make this contradiction as something very material. Therefore, it has to be only seen whether there was any other evidence to suggest that 2nd respondent's vehicle was involved. PW-2 was the grandson of the claimant, who was said to have accompanied the petitioner. The Tribunal still found that this evidence could not be easily relied on because he gave evidence to the effect that he knew the car to be a Scorpio brand and had noticed registration number of the vehicle at the spot itself. He also would state that when his grandfather gave the statement to the police, the same was recorded in his presence. He would also admit that when his grandfather affixed the signature to the statement on the basis of which the FIR was registered, he was present. If he was present at that time when the complaint is given by the claimant to the police, he could not have allowed for a statement, which was clearly wrong. The statement to the police was to the effect that a Qualis vehicle of black colour driven in a rash and negligent manner by its driver came to the side of toll tax but he could not see the number of the vehicle. The reference was, therefore, to Qualis vehicle and the ignorance which the claimant pleaded to the police that he did not see the registration number. If PW 2 was present at that time, he could have corrected the claimant with the appropriate details or he could have given the registration number of the vehicle immediately. His contention, therefore, before the Tribunal that he knew the car to be a black Scorpio car and that he had also noticed the registration number of the vehicle could not be true. Yet another person, who was stated to be an eye-witness was PW-7 Joginder Singh. His evidence seemed very artificial. He had admitted in the cross-examination that although he was at a distance of 10 paces from the claimant at the time of accident, he did not accompany the claimant to the hospital; rather he went to attend to his own job after the accident. He would also state that there were several persons, who had gathered at the spot after the accident and that the police had met him two or three days after the accident. He admitted, however, that the police did not take any statement from him. His evidence did not evoke confidence and that as how the Tribunal had characterized the evidence to reject his version.

2. The driver of the vehicle himself was examined and he had given evidence to the effect that his vehicle had never been involved in the accident and if there was an accident on a highway and people had gathered around him, there was no way that he could have left the place. His contention was that his vehicle never passed through that road at that relevant time. With all these evidence, the Tribunal found that the involvement of the insured's vehicle had not been established and I have no reasons to take a different view than how it is valued by the Tribunal.

3. It is a case where the claimant has suffered a serious disability and had sustained grievous injuries. The case must be only taken to be a case of hit and run and the claimant will have an appropriate remedy from out of the fund

created by the State u/s 163 of the Motor Vehicles Act. The claimant shall be at liberty to file such an application to the State through the authorities constituted under the Act and claim an amount of what is statutorily available. If such an application is filed, the State shall take the injuries suffered by him as having been in a motor accident and that all the circumstances to claim the compensation u/s 163 are available. The delay in filing the application may also be condoned having regard to the fact that he was prosecuting the case before the Tribunal and this Court making out a plea of involvement of a particular vehicle, which involvement has been found to be not established by the Tribunal as well as by this Court. The appeal is dismissed but reserving to the appellant the right of resort to proceedings u/s 163 of the Motor Vehicles Act as described above.