
(1991) 03 P&H CK 0114
In the Punjab And Haryana At Chandigarh

Surinder Jit Singh

APPELLANT

Vs

Kuldip Rai and Others

RESPONDENT

Date of Decision : 26-03-1991

Acts Referred:

Citation : (1992) 1 ACC 97

Hon'ble Judges : G.C. Mital, Acting C.J.;H.S. Bedi, J

Bench : Division Bench

Judgement

H.S. Bedi, J.—The present Letters Patent Appeal has been by Surinderjit Singh, appellant-claimant, against the judgment of the learned Single Judge dismissing the appeal. The Tribunal having decided various issues had also dismissed the claim petition and recorded a positive finding that the accident had not taken place due to the rash and negligent driving by respondent No. 1 Kuldip Rai Thapar. The facts giving rise to the filing of the claim petition are as under:

Respondent No. 1 Kuldip Rai Thapar and the claimant were travelling in Fiat Car No. DLK 5001 from Delhi to Panipat and the car was being driven by respondent No. 1. The accident took place at about 10.30 PM on the night of March 25, 1969. The claimant has alleged that the driver was driving the car in a rash and negligent manner and despite having been warned by him to drive carefully, he did not do so. As a result of the rash and negligent driving by respondent No. 1, the car in question was involved in an accident with a bullock-cart. Resultantly, the elbow of the claimant got entangled between the car and the bullock-cart and was severed from near his shoulder. It has further been alleged that the claimant was taken to the Civil Hospital, Panipat, by the car driver, Kuldip Rai Thapar, respondent No. 1.

2. The claim petition was contested by the respondents. It was inter-alia pleaded that the appellant had rested his elbow on the window of the car, with the result, a portion of his arm was projecting outside the vehicle. Respondent No. 1 further stated that he had several times reminded the appellant to keep his arm inside, but his warning had no effect. It was further pleaded that at the material time a

truck had come from the opposite side with its dazzling headlights, as a result whereof, respondent No. 1 got temporarily blinded. When he realised that there was a bullock-cart in front of his car, he swerved to avoid the collision and as the claimant was resting his arm on the window, in the resultant accident between the bullock-cart and the car, the injury was caused to the claimant. The Tribunal framed various issues on the point and, as stated above, dismissed the claim petition.

3. We have gone through the records of the case and find that the findings of the fact recorded cannot be interfered with in letters Patent Appeal until and unless some glaring discrepancy or mistake is pointed out. The claimant had himself admitted in his statement made before the police that there was no negligence on the part of respondent No 1. and the injury had been suffered by him as he stretched his arm outside the car. While this statement by itself may not be sufficient to deny the claimant his compensation, but this along with the other relevant evidence produced clearly shows that the findings recorded by the Tribunal as well as by the. Learned Single Judge with regard to the liability of respondent No. 1, cannot be set aside. It has also been held by the learned Single-Judge that from the reading of the evidence, it appears that respondent No. 1 suddenly noticed the bullock-cart going in front of his car, as he could not notice it earlier on account of the glare of the head lights of the on coming truck. It has also been recorded that the injury has been suffered by the claimant on account of the fact that he allowed his arm to project outside the body of the car.

4. In view of the findings of fact recorded and for the reasons aforesaid, we find no merit in this appeal and the same is dismissed but with no order as to costs.