
(2008) 05 P&H CK 0032
In the Punjab And Haryana At Chandigarh

Umed Singh alias Umed Kumar

APPELLANT

Vs

Balwan Singh and Others

RESPONDENT

Date of Decision : 05-05-2008

Acts Referred:

Citation : (2008) 152 PLR 635 : (2008) 4 RCR(Civil) 67

Hon'ble Judges : K.C. Puri, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K.C. Puri, J.—The Motor Accident Claims Tribunal, Bhiwani vide its award dated 5.10.1995, dismissed the claim petition filed by the claimant/appellant for grant of compensation of Rs. 5,12,000/- for the injuries suffered by him in a motor vehicle accident.

2. The necessary facts may be epitomized as under: On 21.9.1993, at about 8 AM, the claimant reached Bus Stand, Lohani along with Deepak Kumar and Rakesh to board a bus for Bhiwani to attend the college classes. Bus No. HNB-3016 being driven by respondent No. 1 came there from the side of Jhumpa. It propped some passengers near the Power House. All the passengers ran to board the bus but respondent-No.1, suddenly, rashly and, negligently at high speed, hit the left front side of the bus against the claim ant. The claimant was standing on the left side away from the road on kachha side. The claimant fell down due to hitting of the bus and the tyres of the bus passed over his right leg. The claimant sustained multiple grievous injuries. The claimant has spent a sum of Rs. 25,000/- on his treatment.

3. It has been further averred that the claimant was a young man of 20 years. He was a student of B.Sc. (second year) and earning Rs. 2,000/- per month.

In the written statement filed by respondent No. 1, he took the following stand:

The averments made by the petitioner are false and fabricated. There was no

physical impact of the petitioner with the bus in question. He sustained injuries due to his own negligence and it is wrong to say that respondent was at fault. The respondent-driver, on humanitarian grounds, took the petitioner to the hospital and the petitioner arranged a concocted FIR against respondent No. 1." Respondent Nos. 2 and 3 also took similar stand regarding the negligence of the petitioner in suffering injuries.

4. On the pleadings of the parties, the learned Tribunal framed the following issues:

1. Whether the accident has taken place owing to rash and negligent act of respondent No. 1 Balwan Singh?

2. To what amount of compensation, the petitioner is entitled to and against whom?

3. Whether the petition is not maintainable on account of preliminary objections taken up by the respondents.

4. Relief.

5. The learned Tribunal decided issue No. 1 against the claimant by holding that the whole fault lay upon the claimant who tried to board a moving bus which was already over crowded and fell down from the bus in that process. On issue No. 2, the learned Tribunal assessed total compensation of Rs. 18,000/-. Issue No. 3 was not pressed at the time of arguments. In view of the findings on issue No. 1, the learned Tribunal dismissed the claim petition vide award dated 5.10.1995.

6. Feeling dis-satisfied with the impugned award, the claimant has filed this appeal in this Court.

7. I have heard arguments addressed by the Counsel for the parties and have gone through the record of the case.

8. The crucial issue for determination is whether the accident has taken place due to rash and negligent driving of bus in question by Balwan Singh, respondent. The learned Tribunal after appraisal of testimony of PW-1 Umed Singh, claimant and RW-1 Balwan Singh, driver of the bus came to the conclusion that the claimant has failed to prove the negligence. Whether that finding requires interference on reappraisal of evidence on the file.

9. The answer to that question is in the negative. Even according to the claimant, the driver of the bus stopped the bus at a distance of 50/60 yards away from the place where they were standing. Some of the passengers ran towards the bus in order to board it. He has further stated that the moment the passengers reached near the bus, the driver of the bus started moving the bus at a fast speed suddenly. He was standing at a distance of about three feet from the berm of the road. The driver of the bus brought the bus on the Katcha portion of the road and struck against him. On the other hand, RW-1 Balwan Singh has stated that he stopped the bus near bus stand, Lohani. Some of the passengers alighted from

the bus. Some children had put stone blockade on both sides of the road so as to stop the buses and to board the same in the rush hours of the morning. There was large crowd of boys trying to board the bus. In that process, some boy might have fallen by his own fault in the scuffle. From the above statement of the claimant, it is clear that he has not stated that there was bus stand where the accident has taken place. So, it was not the duty of the driver of the bus to stop the bus. The testimony of .bus driver is further strengthened by the medical evidence produced by the claimant.

10. The learned Tribunal has held that in the history, it is mentioned that the claimant received injuries from a fall from the bus. There was no crush injury on the person of the claimant. So, the definite conclusion which can be drawn from the evidence on the file is that the claimant has tried to board running bus and, in that process, he had fallen. Thus, the driver of the bus cannot be held liable, in these circumstances. Consequently, the findings the learned Tribunal on issue No. 1 does not call for any interference and as such the same Stands affirmed.

11. In view of findings on issue No. 1, the appeal is without any merit and the same stands dismissed. However, in the peculiar facts and circumstances of the case, the parties are left to bear their own costs.