
(2010) 03 P&H CK 0112
In the Punjab And Haryana At Chandigarh

United India Insurance Company

APPELLANT

Vs

Ashish Kumar and Others

RESPONDENT

Date of Decision : 05-03-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 170

Citation : (2010) 03 P&H CK 0112

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

K.C. Puri, J.—This is an appeal directed by United India Insurance Company against the award dated 02.06.2008 passed by Motor Accident Claims Tribunal, Panchkula (Haryana), vide which the claim petition preferred by Ashish Kumar Sharma claiming compensation on account of injuries sustained by him in a motor vehicular accident, was accepted.

2. Brief facts gathered from the record are that Ashish Kumar Sharma aged about 29 years was working as Junior Engineer in Gilard Electronics, Mohali. He was going to Shri Mata Mansa Devi Complex on his motorcycle bearing registration No. HR-03-B-7830. He was driving his motorcycle at a moderate speed and was obeying the traffic rules. When he reached near Petrom Pump, Sector-8, Panchkula, at about 8:30 P.M, another motorcycle bearing registration No. HR-03-D-1196, being driven by respondent No. 1 rashly and negligently, hit against his motorcycle, as a result of which he fell down and sustained injuries. He was rushed to General Hospital, Panchkula from where he was referred to Government Medical College and Hospital, Sector-32, Chandigarh.

3. Respondents No. 1 and 2 filed joint written statement opposing the petition and pleaded that no accident had taken place. However, it is pleaded that scooter LML Vespa bearing registration No. HR-03-D-1196 was insured with United India Insurance Company.

4. Respondent No. 3-Insurance company filed separate written statement taking plea of maintainability; locus standi and cause of action. It is alleged that the offending vehicle was not being driven by a person holding a valid driving licence and the said vehicle was not having a valid Registration Certificate. All other statutory defences were also taken by the Insurance Company.

5. From the pleadings of the parties, following issues were framed by the Tribunal:

1. Whether the petitioner has suffered injuries in the accident in question that took place due to rash and negligent driving of Motorcycle (LML) bearing registration No. HR-03-D-1196 ? OPP

2. If Issue No. 1 is proved, whether the petitioner is entitled to compensation, if so, to what amount and from whom ? OPP

3. Whether respondent No. 1 was not holding a valid and effective driving licence on the date of accident, if so, to what effect ? OPR 3

4. Relief.

6. The claimant examined PW-1 Hari Dutt Sharma and appeared as his own witness as PW-2. In rebuttal, Jaspal Singh appeared as his own witness and Sanjeev Singh appeared as RW-3.

7. The learned Tribunal, after appraisal of evidence, returned the findings on Issue No. 1 & 2 in favour of the claimant. Issue No. 3 regarding driving licence was decided against Insurance Company. So, in view of the findings given on Issue No. 1, the claim petition was accepted and an amount of Rs. 92,000/- was granted to the claimant on account of injuries received by him in the accident.

8. Feeling dissatisfied with the above said award, the Insurance Company has preferred the present appeal.

9. Learned Counsel for the appellant=Insurance Company is fair enough to concede that application u/s 170 of the Motor Vehicles Act has not been accepted by the Tribunal. The main crux of learned Counsel for the appellant is that since the details of offending vehicle i.e the number of the vehicle and the name of driver is not mentioned in the FIR and that only Vespa LM scooter has been mentioned in the FIR, so the claimant has failed to prove that the accident has taken place with the offending motorcycle.

10. I have carefully considered the submissions made by learned Counsel for the appellant, but unable to scribe to those submissions.

11. It is mentioned in the FIR itself that motorcycle LML has caused the accident. The claimant and his father have supported the case of the claimant on all material particulars. They have been cross examined at length but nothing could be brought out on record to falsify the same. FIR is not an encyclopedia and each and every detail is not required to be given in it. No evidence in rebuttal has

been produced.

12. So, in these circumstances, no ground for interference is made out. Consequently, the appeal stands dismissed.