
(2019) 10 SHI CK 0119

In the High Court Of Himachal Pradesh

Case No : First Appeal From Order No. 517 Of 2018

United India Insurance Company Ltd

APPELLANT

Vs

Mast Ram And Others

RESPONDENT

Date of Decision : 24-10-2019

Acts Referred:

Citation : (2019) 10 SHI CK 0119

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Lalit K Sharma, Naresh K Sharma, Adarsh K Vashishta

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. The instant appeal, is, directed by the appellant/ insurer, of, the offending vehicle, against, the impugned award, of, 1.6.2018, as, rendered by the learned Motor Accident Claims Tribunal, Bilaspur, upon, MAC No. 6/2 of 2017, wherethrough, hence compensation amount borne, in a sum of Rs.1,21,901/- alongwith interest at the rate of 7.5% per annum, and, commencing from the date of filing of the petition, till its realization, stood assessed, vis-a-vis, the petitioner therein/respondent No.1 herein, and, the apposite indemnificatory liability was fastened, upon, the insurer of the offending vehicle.

2. The learned counsel for the appellant, does not contest, the quantum of compensation assessed vis-a-vis the claimant/respondent No.1 herein (for short "the claimant"). However, his contest is centralized, upon, infirm findings becoming returned, upon, the issue appertaining, to, rash and negligent manner of driving, of, the offending vehicle bearing registration No. HP-23B-4084 by its driver, arrayed as co-respondent No.2, in, the claim petition, and, respondent No.3 herein. His afore submission is rested, upon, the factum that with the claimant relying, upon, the apposite FIR, and, also when, the, ocular witness to

the occurrence, making echoings in his deposition, vis-a-vis, his not making, any reportings, vis-a-vis, the occurrence, to, the police, thereupon no credence is enjoined to be meted thereon.

3. However, the afore submission, does stagger, in the face, of, a mere averment in the claim petition by the claimant, vis- a-vis, an FIR becoming lodged, vis-a-vis, the relevant mishap rather not perse also facilitating, the, drawing, of, a further inference vis-a-vis the disabled claimant also acquiescing, vis-a-vis, the entailment, of, a disabling injury, upon, him, being not a sequel of rash and negligent manner, of, driving of the offending vehicle by its driver given (a) theirs being therein also a further ascription, of, commission of tort of negligence, by respondent No.3/ the driver of the offending vehicle hence in the latter driving, the, offending vehicle, (b) thereupon the averment, if any, vis-a-vis, the lodging of an FIR, vis-a-vis the occurrence, besides preponderantly, when in the apposite FIR embodied, in, Ex. PW-1/A, there being ascriptions, of, commission, of, inculpable negligence, vis-a-vis, the driver of the offending vehicle, and, (c) obviously there being no ascription therein, of, commission, of, inculpable negligence, vis-a-vis, the driver of the Motor cycle concerned, (d) preeminently also when hence, there is no apparent dis-concurrence, vis-a-vis, the echoing(s), in the apposite FIR, and, ascription(s), in, the claim petition, vis-a-vis, commission of tort of negligence, by the driver, of, the offending vehicle, hence, in, the, latter driving, the, offending truck, hence, the afore made espousal before this Court, becomes thoroughly rudderless.

4. Even the mere factum of PW-2 Shri Sahib Singh, not making a report, to, the authority concerned, not perse benumbing his testimony, unless the learned counsel, for the insurer, during the course of his cross-examining PW-2, ensuring elicitations from him, and, with graphic echoings therein qua his being not, an, ocular witness to the occurrence. However, the afore echoings are amiss therein, thereupon the ocular account, vis-a-vis, the occurrence, and, as, rendered by PW-2, and, wherein he ascribes commission, of, tort of negligence, vis-a-vis, the driver, of, the offending vehicle, arrayed as co-respondent No.2 in the claim petition, gathers immense potency, and, consequently, the, returning of findings, upon, the issue appertaining to the relevant mishap, vis-a-vis, it, becoming caused by the rash and negligent manner, of, driving of the offending vehicle by its driver, are, both meritworthy, and, do not warrant any interference.

5. Be that as it may the learned counsel, for, the claimant contends qua the quantification, of, the compensation made, vis-a- vis, the disabled claimant, under, the impugned award, being infirm, (i) given PW-3 (Dr. Paras Ram) in his cross-examination, making a deposition, that upon his examining the claimant, on, 17.7.2016, the, latter reporting to him qua the injuries befalling upon him, being a sequel of his suffering a fall, thereupon he contends that the disabling injuries entailed, upon, the claimant holding no nexus, vis-a-vis, the relevant mishap, hence involving the relevant vehicle. However, the afore made submission is infirm, as, the MLC concerned hence purportedly making, the,

afore echoings, is, not existing on record, and, even if the afore MLC, stood adduced, into evidence, thereupon, unless the afore scribings, as, made by the Doctor concerned, also, stood signed by the claimant, thereupon, no credence was rather enjoined to be meted thereto, for, hence succoring the afore made espousal. Significantly and reiteratedly, since, the afore apposite MLC is not on record, thereupon the afore echoing existing in the cross-examination, of, PW-3, rather carries no worth.

6. In view of the above, there is no merit in this appeal, the same is accordingly dismissed. The impugned award is maintained and affirmed. All pending applications stand disposed of accordingly.