
(1993) 08 P&H CK 0165

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 858 of 1986

Virat Sama

APPELLANT

Vs

Mohan Lal and Others

RESPONDENT

Date of Decision : 25-08-1993

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1994) 2 ACC 357 : (1994) ACJ 432 : (1994) 106 PLR 82

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : Arun Jain, for the Appellant; S.S. Aulakh, for the Respondent

Final Decision : Allowed

Judgement

Amarjeet Chaudhary, J.—The Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the Tribunal) vide its award dated 23.8.1986 had awarded a sum of Rs. 7500/- as compensation u/s 92-a of the Motor Vehicles Act for no fault liability to the claimant on account of the injuries sustained by him in a road accident alleged to have taken place on 15.10.1982 though the Tribunal had held that the total loss suffered by the claimant comes to Rs. 68,000/-. The reason for declining the compensation is that the plea of negligence was not taken in the claim petition originally filed by the claimant.

2. Aggrieved against this award the appellant has filed this appeal.

3. The learned counsel for the appellant has argued that the claimant had filed civil Revision no. 1312 of 1985 for amendment of the claim petition which was allowed by this court vide its order dated August 19, 1985. The learned Counsel further contends that the Tribunal had not taken into consideration the amended claim petition and had awarded the compensation on the basis of original claim petition.

4. I have considered the submissions of the learned Counsel for the parties and perused the case file.

5. In. the instant case the vehicular accident in which the claimant appellant had sustained injuries is not in dispute.

6. From the perusal of the case file, I find that the Tribunal while awarding compensation to the claimant appellant had not taken into consideration the amended claim petition in which a specific plea, was taken that the accident had taken place as a result of rash and negligent driving of Auto Rickshaw No. CHV 145 by its driver Rami Singh respondent No. 1, 2. Therefore, I am of the considered view that the Tribunal while deciding the matter should have taken into consideration the amended claim petition and it should not have been decided on the original claim petition.

7. The other ground taken by the Tribunal for not awarding compensation is that in the police Report, negligence has not been attributed to autorickshaw driver. I am not inclined to subscribe to the view taken by the Tribunal as in accident cases, FIR is often lodged in a haste and the same cannot be a substitute for the evidence giving exhaustive version of the occurrence. The statements before the Tribunal are made on solemn affirmation, whereas the FIR is never lodged on solemn affirmation.

8. On consideration of the matter, I am of the view that the appellant had taken a specific plea in the amended claim, petition that the alleged accident had taken place due to the rash and negligent driving of auto rickshaw No. CHV 145 by its driver Rami Singh, respondent No. 2 and the claimant-appellant should have been awarded compensation to the tune of Rs. 68,000/- as assessed by the Tribunal.

9. In view of the foregoing discussion, the appeal is allowed and the Claimant-appellant is awarded Rs. 68,000/- as compensation with 12% PA interest from the date of filing of the original claim petition till realisation of entire amount. Out of the compensation awarded by this Court a sum of Rs. 7500/- already awarded by the Tribunal is to be adjusted.

10. No order as to costs.