

Case :- FIRST APPEAL FROM ORDER No. - 34 of 1997

Appellant :- Rajendra Kumar Pandey

Respondent :- Sri Rajeev Dixit & Others

Counsel for Appellant :- K.N. Nirkhi

Counsel for Respondent :- R.Kumar

Hon'ble Krishna Murari,J.

Hon'ble Shailendra Kumar Agrawal,J.

This First Appeal From Order has been filed by the claimant/appellant, challenging the judgment and award dated 26.09.1996 passed by Xth Additional District and Sessions Judge, Kanpur Nagar/ Motor Accident Claims Tribunal rejecting his claim petition.

Facts giving rise to the dispute are as under:-

An application claiming compensation to the tune of Rs. 5,62,000/- was made by the appellant, alleging that on 19.6.1991 at about 11 A.M., when he was going from his workshop and reached near L.I.C. Colony, Sharda Nagar, Scooter No. URK-6848, owned by respondent No.1, which was being driven rashly and negligently by respondent no.2, hit him causing grievous injuries. It was further pleaded that there was bone fractured in his right leg, which was operated and fitted with steel rod.

The proceedings were contested by respondent Nos.1 and 2 by filing written statements, denying the accident. Respondent No.3, Insurance Company, has also filed written statement denying the accident.

On the basis of pleadings, the Tribunal framed five issues. Issue no.1 was whether on 19.6.1991, the accident was caused on account of rash and negligent driving of offending scooter by opposite party no.2, on account of which the claimant-

appellant received grievous injuries.

The Tribunal, after analysing the evidence brought on record by the claimant, returned a finding that the claimant has failed to establish the factum of accident and accordingly dismissed the claim petition. The finding recorded by the Tribunal is based on analysis of oral evidence of claimant and opposite party no.1, who stated that he was an insurance agent and was living near the house of the claimant and both were well known to each other. The Tribunal has further relied upon the cross-examination of opposite party nos.1 and 2, who stated that the appellant is an insurance agent and his uncle was working in the New India Insurance Company and insured his scooter just a few days before the accident. On the basis of the said fact, the Tribunal arrived at a conclusion that number of the scooter was well-known and it was falsely implicated in the accident. The Tribunal has further taken note of the fact that the claimant-appellant failed to produce any evidence of his treatment in any government hospital. The medical papers submitted by the appellant to establish his treatment is of a private nursing home and treating Doctor of the private nursing home has not been produced in evidence.

On the basis of the aforesaid evidence and analysis, the Tribunal recorded a finding that the claimant has failed to establish the involvement of the scooter in the accident and accordingly dismissed the claim petition.

From the perusal of the award and the materials on record, we do not find any illegality in the award either in the assessment of the evidence or the conclusion arrived at which may require any interference in the appeal. Thus, the appeal, being devoid of merits, is liable to be dismissed.

The First Appeal From Order, accordingly, stands **dismissed**.

Order Date :- 5.6.2017/SFH