IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3148 of 2011
Date of Decision: January 5, 2015

Ashok Kumar ...Appellant

Versus

Satish and others ...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ashwani Bakshi, Advocate
for the appellant.

Mr. Arun Sharma, Advocate
for Mr. T.K. Joshi, Advocate
for respondent No.3-Insurance Company.

FATEH DEEP SINGH, J.

Aggrieved over the findings dated 13.12.2010, the claimant has sought to come up in this appeal, whereby the learned Motor Accident Claims Tribunal, Rohtak dismissed his petition preferred under Section 166 of the Motor Vehicle Act, 1988 (in short, 'the Act') regarding compensation for the damage to his car make Maruti Zen VX, model 2001, which was involved in an accident that took place on 23.1.2008.

Upon hearing learned counsel for the parties.

Apparently as has been conceded it was after seven years of purchase of vehicle the accident has taken place and, therefore, amply qualifies for deduction of depreciation. It is

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the own stand of the claimant that the vehicle was under the comprehensive insurance for which the owner has been compensated by the Insurer to the tune of ₹52,000/-. Since the onus to establish his case lay upon the claimant, he has examined PW1 Baldev Raj, who through Ex.P1 has proved rough cost estimate.

It has been rightly argued on behalf of the respondent that this estimation has been given by a totally illiterate mechanic, who did not have requisite qualification either of a diploma or a degree in engineering. It was incumbent upon the claimant to have examined qualified expert to establish the likely damages to his vehicle. Neither any photographs of the damaged vehicle much less any report of qualified expert that the vehicle is damaged beyond repair which is the base of this claim of the owner has been proved on the records. Merely proving by the claimant as PW3 through his affidavit Ex.PW3/A copy of the FIR Ex.P2 or through PW2 Pawan Kumar, Ahlmad as to the pendency of the criminal proceedings or his ownership by virtue of copy of registration certificate Ex.P3 does not comes to the aid of the appellant. Moreover, Ex.P5 which is inspection report does not carries weight for the claimant. The own admission of the mechanic that he is not qualified and the fact that the estimate does not bear any serial number or that there is nothing tangible proved on the records of the likelihood as to the prevalent market value of the vehicle at the time of the accident together with the fact that a sum of ₹52,000/- has been paid by the Insurer to the owner for the damages are matters which have their bearing on the case of the claimant that he has been adequately paid

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compensation which he has readily received without even murmur and now cannot be allowed to retrace his steps.

The learned Tribunal has given a well reasoned finding which does not calls for any interference.

Thus, the appeal being without any merit stands dismissed with costs.

(FATEH DEEP SINGH)
JUDGE

January 5, 2014
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