

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 680 of 2015

Ashok Kumar

.....Appellant

Versus

Yogesh Kumar and another

.....Respondents

Present:-

Mr. Jitendra Chaudhary, Advocate for the appellant.

Mr. D.N. Sharma, Advocate for the respondent no.1.

Hon'ble Ravindra Maithani, J. (Oral)

Instant appeal is preferred against the judgment and award dated 04.03.2015, passed in Motor Accident Claim Petition No.142 of 2012, Ashok Kumar Vs. Yogesh Kumar and another ("the claim petition") by the MACT/Additional District Judge, Kashipur, District Udham Singh Nagar. By it, the claim petition under Section 140/166 of the Motor Vehicles Act, 1988 filed by the appellant has been rejected.

2. Heard learned counsel for the parties and perused the record.

3. The appellant did file the claim petition on the ground that on 01.07.2011, when he was riding on a motorcycle bearing Registration No. UA06H-9218 ("the motorcycle") from Kasampur Turn on Jaspur-Nadehi Road at 05:00 p.m. the Hero Honda Motorcycle bearing Registration No. UA06E-4574 ("the vehicle") was being driven in a rash and negligent manner and it hit the motorcycle driven by the appellant on wrong side, due to which the appellant sustained the injuries. He was taken to hospital. He had to spend over Rs.1,50,000/- till he filed the claim petition. The report of the incident was lodged by the brother of the appellant on 16.07.2011, which was not properly investigated by the police and

instead lodged another report No. 120 of 2011 against the appellant. With these and other averments, claim of Rs.6 Lakh was raised by the appellant.

4. The respondent no.1 who is owner and driver of the vehicle. He has denied the averments made by the appellant. According to him, in fact, on the date of incident, when he was driving the vehicle, he noticed the appellant coming from the opposite side in a drunken state, driving the motorcycle in a rash and negligent manner. The respondent no.1 parked his vehicle, but yet, the appellant hit him. He alongwith his wife and daughter were taken to hospital and FIR No. 120 of 2011("the FIR") was lodged against the appellant, in which, after investigation, charge sheet was submitted against the appellant. Based on which, Criminal Case No. 549 of 2011, State Vs. Ashok Singh under Section 279, 337, 338 and 427 IPC was registered ("the case"). The appellant did plead guilty on 24.12.2011 and the case has been decided. It is the case of the respondent no.1 that, in fact, the FIR that has been lodged on behalf of the appellant was investigated and final report has been submitted by the police. The claim has been denied by the respondent no.2/ Insurance Company. The respondent no.2/ Insurance Company also filed objection

5. Based on the pleading of the parties, following four issues were framed:-

- (i) Whether on 01.07.2011 at 5:00 in the evening at Jaspur Nadehi Road near Kasampur turn at Police Station Jaspur, District Udham Singh Nagar, the rider of motorcycle No. UA06E-4574 by riding it rashly and negligently hit the motorcycle No. UA06H-9218, due to which

appellant Ashok Kumar sustained serious injuries?

(ii) Whether at the time of accident, rider of the motorcycle No. UA06E-4574 was having valid and effective driving license?

(iii) Whether at the time of accident, the insurance of motorcycle No. UA06E-4574 was valid, if yes its effect?

(iv) Relief?

6. On behalf of the appellant, in all three witnesses, namely, PW1 Ashok Kumar, PW2 Dr. Sunil Kumar Singh and PW3 Nakul Suvva were examined.

7. On behalf of the respondent no.1, DW1 Yogesh Kumar, who is respondent no.1 himself has been examined.

8. On the issue no. 1 the Tribunal held that since in the FIR lodged against the appellant, he has pleaded guilty in the case. It proves that the appellant himself is 100 percent responsible for the accident and he is not entitled to any compensation. The Tribunal further held that since the appellant is not entitled to any compensation, there is no need to record any findings on issue nos. 2 and 3.

9. Learned counsel for the appellant submits that finding recorded in a criminal case may not be read in a proceeding for claim arising out of motor accident. He submits that the FIR that was filed by the respondent no.1 is not maintainable because prior

to it the appellant himself had lodged the report with regard to the same incident.

10. Learned counsel for the respondent no.1 submits that impugned judgment and order is in accordance with law. It does not warrant any interference.

11. The effect of the finding recorded in the criminal case is one thing and if the person himself pleads guilty that is something different.

12. It has been the case of the respondent no.1, the owner and driver of the vehicle that on the date of incident, he had noticed the appellant riding a motorcycle in a rash and negligent manner under intoxication, therefore, he had parked the vehicle on the road side, but still the appellant riding the motorcycle in a rash and negligent manner hit him. He was under intoxication. There are certain observations in the medical examination report that there was alcohol smell emanating from the mouth of the appellant, but that is the different aspect of the matter. The fact of the matter is this that admittedly, the respondent no.1 lodged an FIR against the appellant, based on which, a criminal case was instituted. On 24.12.2011, the appellant pleaded guilty in Criminal Case No. 549 of 20211, State Vs. Ashok Singh, under Section 279, 337, 338 and 427 IPC arising out of FIR No. 114 of 2011, Police Station Jaspur in the court of Judicial Magistrate, Kashipur, District Udham Singh Nagar.

13. The appellant himself has pleaded guilty that the cause of accident is his rash and negligent driving. It is not finding recorded by the court, it is plead guilty by the appellant. Therefore, this Court is of view that the Tribunal has rightly held that it is the

appellant, who is 100 percent responsible for the accident and he is not entitled to any compensation.

14. Having considered, this Court is of the view that no interference is warranted in the impugned judgment and award and the appeal deserves to be dismissed.

15. The appeal is dismissed accordingly.

(Ravindra Maithani, J.)
30.05.2026

Jitendra