

Before : A. L. Bahri, J.

RAJ RANI,—Appellant.

versus

GENERAL MANAGER, HARYANA ROADWAYS, KARNAL
DEPOT AND OTHERS,—Respondents.

First Appeal from Order No. 517 of 1984

October 27, 1988.

Motor Vehicles Act (IV of 1939)—Ss. 110, 110-A(3)—Claim application filed after three months—Accident denied as the same was not reported to police—Non-reporting—Effect of—Stated.

Held, that the law does not provide that for filing claim petition under Section 110 of the Motor Vehicles Act, 1939, the claimant must report the accident to the police or that the claimant must promptly present the claim petition immediately after the accident. A period of six months is provided under S. 110-A(3) of the Act for presenting claim petitions. The claim would be presented within the said period. The Tribunal has further power to accept claim petition beyond that period if sufficient cause is shown. The claimant in such circumstances is not required to explain as to why he did not file the claim petition promptly. Furthermore, the law does not require that statement of the claimant, if it is otherwise trustworthy and believable, must be corroborated by any independent witness. Non-production of other witnesses *per se* cannot be a ground to discard the evidence of the claimant who had suffered injuries in the accident which had taken place in broad day light.

(Para 4)

First Appeal from the order of the court of Shri K. C. Gupta, Motor Accident, Claims Tribunal, Karnal, dated 16th April, 1984 dismissing the claim application of Smt. Raj Rani, claimant under section 110-A for the recovery of Rs. One lac as compensation and leaving the parties to bear their own costs.

CLAIM : Claim petition under section 110-A of Motor Vehicles Act.
CLAIM IN APPEAL : For enhancement of the compensation.

D. S. Bali, Sr. Advocate, Ravinder Arora, Advocate with him,
for the Appellant.

B. S. Malik, Addl. A.G. (Hy.), Mr. J. C. Verma, Advocate, for
respondent No. 2.

ORDER

A. L. Bahri, J.

(1) In this appeal, challenge is to the award of Motor Accident Claims Tribunal, Karnal, dated April 16, 1984,—*vide* which claim petition filed by Smt. Raj Rani appellant was dismissed. She suffered injury to her leg while boarding Haryana Roadways Bus No. HYC-7123 at Bus Stop near Prem Nagar Octroi Post, Karnal on December 22, 1982 at about 8.30 A.M. She was employed in Haryana Roadways, Karnal and to attend to her duty she was to travel by bus. She had just caught hold of rod of the window and had put one foot on the board that the bus suddenly started and speeded up. The bus was driven by Rawail Singh respondent No. 2 and Mai Chand respondent No. 3 was conductor. It was at his instance that the driver of the bus started the same. She claimed a sum of Rs. 1,00,000 as compensation and a sum of Rs. 7,500 as *ex gratia* grant. The respondents contested the claim denying that the accident took place with the said bus which was driven by Rawail Singh. Some other objections were also raised. The following issues were framed by the Tribunal:—

1. Whether the accident in question took place due to rash and negligent driving of respondent No. 2 while driving Bus No. HYC-7123 and because of the act of respondent No. 3 ? O.P.P.
2. To what amount of compensation is the claimant entitled and from whom ? O.P.P.
3. Whether the claim petition has been properly presented ? O.P.R.
4. Whether the petition is properly valued for purposes of Court-fee and jurisdiction ? O.P.R.
5. Relief.

(2) Under issue No. 1 it was held that the accident did not take place with Bus No. HYC-7123. Under issue No. 2, it was held that the claimant was entitled to compensation amounting to Rs. 4,100. Under issue No. 3, the claim petition was held to have been properly

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presented. Under issue No. 4, the claim petition was held to be properly valued for the purposes of Court-fee and jurisdiction. In view of finding on issue No. 1, as noticed above, the claim petition was dismissed.

3. While deciding issue No. 1, the Tribunal did not accept the statement of Raj Rani appellant on the ground that she had not reported the accident to the police and she filed the claim petition after about three months of the accident. In her statement she had stated that the respondents after the accident were assuring her to help her. Since this fact was not put to the respondents who appeared as R.W.1 and R.W.2, her statement was disbelieved for want of independent corroboration. I have scanned through the statement of Raj Rani and find the same to be acceptable and corroborated also from the medical evidence. Immediately after the accident, she was taken to the hospital wherein she was admitted. Her bed head ticket was prepared wherein there was mention that she had suffered the injury on account of fall from the bus.

(4) The law does not provide that for filing claim petition under section 110 of the Motor Vehicles Act, the claimant must report the accident to the police or that the claimant must promptly present the claim petition immediately after the accident. A period of six months is provided under section 110-A(3) of the Motor Vehicles Act for presenting claim petitions. The claim could be presented within the said period. The Tribunal has further power to accept claim petition beyond that period if sufficient cause is shown. The claimant in such circumstances is not required to explain as to why he did not file the claim petition promptly. Furthermore, the law does not require that statement of the claimant, if it is otherwise trustworthy and believable, must be corroborated by any independent witness. Non-production of other witnesses *per se* cannot be a ground to discard the evidence of the claimant who had suffered injuries in the accident which had taken place in broad day light.

(5) The evidence of Raj Rani who appeared as P.W.10 is categorical and supports her case. She deposed about the manner of the accident with Bus No. HYC-7123, as briefly described above.

(6) P.W.1 Dr. K. L. Sachdeva deposed about preparation of the bed head ticket on admission of Raj Rani in the hospital wherein it was mentioned that she had suffered the injury by having a fall

from the bus. There was no time gap for Raj Rani to think about a new story to be put forth when she was admitted in the hospital with fracture of her leg. Accepting the evidence of Raj Rani that she was just going to board the bus when suddenly it started and she suffered injuries, it is held that the injuries were suffered due to rash and negligent driving of the bus. It was the duty of the conductor of the bus to give signal for starting the bus to the driver after he had closed the window letting in the passengers and likewise the driver ought to have started the bus after passengers had been accommodated in the bus. The accident was thus due to rash and negligent driving of the bus by employees of the Haryana Roadways which resulted in causing injuries to Raj Rani. Finding of the Tribunal on issue No. 1 is, therefore, reversed.

7. According to Dr. K. L. Sachdeva P.W.1, Raj Rani was admitted to the hospital at 4.25 P.M. on December 22, 1982 through Casualty Department. She was operated upon on January 15, 1983 and remained in the hospital till February 12, 1983. She had fractured neck of femur of left side (of leg). Her leg was under plaster when she left the hospital. On January 17, 1983, a window was made in the plaster and stitches were removed. The window was closed. Pin-traction was also applied to the patient. The statement was given on September 28, 1983 and even on that day Raj Rani was using crutches. The doctor was further examined on February 6, 1984 and he stated that he found disability of the patient upto sixty per cent. There were chances of recovery if she was operated upon again. She could not attend to her normal vocation on account of this disability. During cross-examination, he stated that even without operation there was possibility of her complete cure. At this stage, it may be noticed that the doctor did not opine about shortening of the leg on account of the fracture and stated that by lapse of time, the fracture would be completely united and the patient would be cured completely. Overall disability of the patient was not given. The doctor gave sixty per cent disability of the leg although he did not specifically state so. For about two months, Raj Rani remained in the hospital. Thus, compensation is to be assessed taking into consideration the nature of the injury found on the leg. The Tribunal assessed total compensation to the extent of Rs. 4,100 which is not at all inadequate to call for any interference. This is just compensation assessed. Finding of the Tribunal on issue No. 2 is, therefore, affirmed in this respect.

(8) Findings of the Tribunal on issue Nos. 3 and 4 are not challenged in this appeal and the same are, therefore, affirmed.

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(9) For the reasons recorded above, this appeal is accepted with costs. Counsel's fee Rs. 300. The award of the Tribunal is modified. The appellant is allowed a sum of Rs. 4,100 as compensation with 12 per cent per annum interest thereon from the date of institution of the claim petition i.e. March 8, 1983 till realisation.

P.C.G.

Before : I. S. Tiwana, J.

AMARJEET SINGH AND OTHERS,—Appellants.

versus

STATE OF HARYANA AND OTHERS,—Respondents.

Regular First Appeal No. 923 of 1985

December 17, 1988.

Land Acquisition Act (I of 1894)—Ss. 23 and 24—Determination of compensation for land acquired—Applicability of amended S. 24—Such amendment of later date—Effect of.

Held, that the very language of S. 24 of the Land Acquisition Act, 1894 suggests that it is more or less in the form of an exception to S. 23 of the Act which lays down the matters or factors which have to be taken into consideration for determining the amount of compensation payable to a person whose land is acquired under the Act. Whereas, S. 23 lays down the principles or the considerations that have to be taken notice of in determining the compensation for the land acquired, S. 24 enumerates the matters which the Court shall not take into consideration in determining the compensation. In other words, the combination of the two sections specifies the procedure as to how the market value and the compensation payable for the acquired land is to be determined. By now it is well laid down that normally alteration of procedural provisions is always retrospective unless there are good reasons to the contrary. In the instant case, clause Eightly which has recently been added to S. 24 (on 24th September, 1984) can also not be held to be retrospective merely because a part of the requisites for its operation is to be drawn from a time antecedent to its introduction.

(Para 4).

Regular First Appeal from the order of the Court of Shri Baru Ram Gupta, Addl. District Judge, Sirsa, dated 12th February, 1985