

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1914 of 1997 (O&M)
Date of decision 10 .03. 2015.

New India Assurance Co.

..... Appellant.

versus

Neelam Bhatia and others

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present : Shri Jagjit Singh, Advocate for
Shri Ashwani Talwar, Advocate for the appellant.

K.C.PURI, J.

New India Assurance Company has challenged the Award dated 08.05.1997 passed by Shri A.S.Garg, Motor Accident Claims Tribunal, Ambala vide which claimant Neelam Bhatia has been allowed compensation to the tune of Rs.2,00,000/- in respect of injuries suffered by her in motor vehicular accident.

2. The claim of the claimant set up in the claim petition is that on 30.8.1995 claimant Neelam Bhatia was going from Panchkula to Jammu in her car No. CHK-8011 along with her husband Sunil Bhatia and friend Shri

K.K.Kapoor and his wife Smt. Indira Kapoor. When they reached near village Haddo, her husband stopped the car on his left side. K.K.Kapoor was sitting besides him on front seat of the car, whereas, claimant Neelam Bhatia and Smt. Indira Kapoor were sitting on the rear seat of the car. Respondent No.1 Bhinder Singh was coming from the opposite directions in his car No. PB-25-0095 and was going from Ludhiana to Chandigarh. He was driving the car in zig-zag manner and did not blow horn. It was at about 11.30a.m. In the meanwhile, a cow came on the road but since the respondent No.1 was driving the car at a very high speed in rash and negligent manner he could not control his vehicle and struck against the parked car of the claimant bearing No. CHK-8011 while coming on the wrong side of the road. The car of the claimant was standing on its left side of the road and the respondent No.1 was so rash and negligent that he came on his right side and dashed against the car of the claimant. It was further claimant's claim that the accident took place on account of rash and negligent driving of respondent No.1 who was driving the car No. PB-25-0095 owned by respondent No.2. The claimant Neelam Bhatia received multiple grievous injuries on various parts of her body due to rash and negligent driving of respondent No.1. Other occupants of the car also received injuries and the car was also badly damaged.

3. Respondent Nos.1 and 2 did not put in appearance in spite of service. Therefore, they were proceeded against ex-parte vide order dated 3.5.1996.

4. Respondent No.3 Insurance Company filed written statement

and inter alia alleged that no accident took place of car No. PB-25-0095 with Car No. CHK-8011. It was further alleged that Insurance company was not liable to pay any compensation.

5. From the pleadings of the parties, following issues were framed :-

1. Whether the accident in question had taken place on account of rash and negligent driving of Car No. PB 25-0095 by its driver Bhinder Singh-respondent ? OPP
2. Whether the petitioner is entitled to the amount of compensation from the respondents, if so to what amount ? OPP
3. Whether the respondent No.3 is not liable to pay any compensation to the petitioners, in view of various preliminary objections raised by it in its written statement ? OPR
4. Relief.

6. The Tribunal, after assessing the testimony of the witnesses accepted the claim petition, as aforesaid.

7. Feeling dissatisfied with the above said Award, the Insurance Company has directed the present appeal.

8. I have heard learned counsel for the parties and have gone through the records of the case.

9. The learned counsel for the appellant has challenged the award regarding quantum of compensation. It is submitted that an amount of Rs.1,00,000/- in respect of total disability of 25% is on higher side. The learned trial Court has taken balanced view while determining the compensation. The doctor has opined the disability to the extent of 25% but the tribunal has taken permanent disability to the extent of 15% through out

her life and have granted a sum of Rs.1,00,000/- on that account. The learned trial Court awarded Rs.25,000/- in respect of future treatment, is also not challenged by the appellant. The claimant has suffered fracture of neck, humerus left with avulsion of greater tuberosity with fracture upper forth tibia comminuted fracture lateral condyle left femur. So, in these circumstances, a sum of Rs.2,00,000/- granted to the claimant on all the heads cannot be said to be excessive.

10. In view of the above discussion, the appeal preferred by the Insurance Company is without any merit and the same stands dismissed.

11. A copy of this judgment be sent to the trial Court for strict compliance.

(K.C.PURI)
JUDGE

March 10 , 2015
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