

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1231 of 1999 (O&M)
Date of decision 20.04. 2015.

Naresh Kumar

..... Appellant.

versus

Ravinder Singh and another

..... Respondents.

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

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

Present : Shri K.S.Pawar, Advocate for the appellants.
Shri Girish Agnihotri, Senior Advocate with
Shri Kshitin Sharma, Advocate for respondent No.2 -
Insurance Company.

K.C.PURI, J.

This is an appeal directed by Naresh Kumar injured against the Award dated 13.10.1998 passed by Mrs. Sneh Prashar, Motor Accident Claims Tribunal, Rohtak for enhancement of compensation.

2. Briefly stated that accident took place on 14.3.1996 of a truck bearing registration No.HR-46-3795 being driven by Satbir Singh, its first driver was returning from Maharashtra State. Its second driver Jaipal Singh and conductor Naresh Kumar were sitting in the truck besides the driver.

When the truck reached in the area of Police Chowki Kasara Police Station Thane, the truck became out of control as it was being driven rashly and negligently by driver Satbir Singh. The brakes of the truck became out of order and it struck against another vehicle that was coming from opposite direction. As a result of the accident both the drivers died and Naresh Kumar conductor received multiple injuries.

3. Respondent No.1 filed written statement alleging that accident had not taken place due to his rash and negligent driving. He has pleaded that accident has taken place due to brake-failure and there was no fault on the part of the driver of the truck. The truck in question hit another standing truck parked on the road side. Thus the accident was not caused due to rash and negligent driving of the truck in question. On merits, the allegations were denied.

4. Respondent No.2- Insurance Company filed separate written statement and controverted the allegations of the claim petition on the ground that the claim petition is not maintainable. The driver was not holding valid driving licence. The claim petition is false. Denying other averments, answering respondent prayed for dismissal of the claim petitions.

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

- (1) Whether the accident took place because of the rash and negligent driving of truck No. HR-46-3795 being driven by Satbir Singh driver deceased on 14.3.1996 in the area of Village Thana, (Maharashtra) and in that process, said truck turned turtle in which driver Satbir and Jaipal lost their lives and Naresh petitioner received injuries ?OPP

- (2) To what amount of compensation, petitioners are entitled and from whom ?OPP
- (3) Whether the respondent-insurance company is liable to indemnify the insured Ravinder Kumar in terms of the insurance policy ?OPR
- (4) Whether Jaipal and Satbir are holding valid driving licence ?OPR
- (5) Relief.

6. The parties had led their respective evidence on the aforesaid issues. The learned Tribunal after adjudication partly accepted the claim petition and allowed a sum of Rs.35,000/- to the claimant-appellant. The learned Tribunal observed that there is 15% permanent disability and a sum of Rs.15,000/- were granted in that respect. Another sum of Rs.15,000/- was allowed in respect of expenditure on treatment and for pain and agony undergone by him. Rs.5000/- was allowed in respect of transportation and in this manner total amount granted was Rs.35,000/-.

7. From the evidence on the file, it is revealed that claimant suffered from old dislocation of right hip and fracture of both bones right leg and implants from the right leg at later stage was done. Doctor has further stated that joint of claimant was found to be incongruent because of probably avascular necrosis of head of femur. Claimant stated that he remained admitted in Bombay Hospital from 14.3.1996 to 6.4.1996. An amount of Rs.35,000/- granted to the claimant in respect of 15% disability is on lower side. The ends of justice would be met in case another sum of Rs.50,000/- is granted in respect of all heads including pain and suffering, loss of future prospectus, loss of pleasures of life etc.

8. So, the appeal is partly accepted. The respondents are directed to pay another sum of Rs.50,000/- in addition to the amount awarded by the Tribunal. The aforesaid amount shall carry interest @ 7½% per annum from the date of claim petition before the Tribunal till the date of realization.

9. A copy of this judgment be sent to the Tribunal for strict compliance.

(K.C.PURI)
JUDGE

April 20, 2015
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