

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1.

FAO No. 889 of 1997(O&M)

Date of Decision: August 26 , 2015.

State of Haryana and another

..... APPELLANT(s)

Versus

Gordhan and others

..... RESPONDENT (s)

2.

FAO No. 890 of 1997(O&M).

Haryana State and another

..... APPELLANT(s)

Versus

Ramesh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ram Tilak Redhu, DAG, Haryana
for the appellants.

Mr. Rakesh Lathwal, Advocate
for respondent No.1 (in FAO No.890 of 1997).

1. Whether reporters of local papers 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?

LISA GILL, J.

This order shall dispose of FAO No.889 of 1997 (State of Haryana and another v. Gordhan and others) and FAO No.890 of 1997 (Haryana State and another v. Ramesh and others) preferred by the State of Haryana and

Haryana Roadways, Panipat Depot impugning award dated 04.02.1997 passed by the Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as, the 'Tribunal') challenging the finding of learned Tribunal that the accident, in question, occurred on account of rash and negligent driving of Roshan Lal (respondent No.3 in FAO No.889 of 1997) driver of the Haryana Roadways bus No. HR-05A-3547. Quantum of compensation awarded has also been challenged. It is contended that it was in fact owner-cum-driver of Jeep No.DED-422, who was responsible for the accident.

Brief facts of the case are that, the deceased – Randhawa and PW1 Prabhu, uncle of deceased Randhawa, boarded Jeep No. DED-422 at Bus Stand, Bahalgarh on 15.05.1994 for proceeding to Delhi. At about 4.00 p.m. when they reached near Bud Khalsa turning on G.T. Road, Haryana Roadways bus No. HR-05A-3547 driven by respondent No.3 – Roshan Lal in a rash and negligent manner struck against the Jeep. Randhawa succumbed to the injuries sustained by him in the accident. Ramesh also sustained multiple injuries. FIR was registered against Roshan Lal, driver of the Haryana Roadways bus. Claim petitions were filed by the parents of deceased – Randhawa and injured – Ramesh himself.

Learned Tribunal on perusal of the evidence on record, concluded that the accident had occurred due to the rash and negligent driving of the offending bus by Roshan Lal. Compensation to the tune of ₹60,000/- was awarded to the parents of deceased – Randhawa, namely, Gordhan and Ram Ratti to be apportioned in equal shares. Injured – Ramesh was held entitled to a sum of ₹2,50,000/-.

Learned counsel for the appellant is unable to point out any infirmity or perversity in the finding rendered by the Tribunal regarding the accident being caused on account of rash and negligent driving of Roshan Lal.

PW1 Prabhu, a person travelling in a Jeep alongwith the deceased and an injured eye-witness of the occurrence, has succinctly revealed the events as they unfolded. It is on his statement that FIR, Ex.P1 was lodged against respondent No.3 – Roshan Lal, driver of the Haryana Roadways bus. PW3 Ramesh. The injured-claimant has fully supported this version.

It is specifically held by the Tribunal that negligence was on the part of the driver of the offending bus. Furthermore, it has been held by the Hon'ble Supreme Court in **Parmeshwari v. Amir Chand and others, 2011(2) RCR(Civil) 153** that registration of FIR should be accepted as *prima facie* evidence of accident having been caused in a rash and negligent manner by the accused therein. In these proceedings under the Motor Vehicles Act the matter has to be decided on preponderance of probabilities and proof beyond reasonable doubt as in criminal proceedings is not to be insisted upon. There is no evidence on record to suggest anything contrary to the findings of the Tribunal.

A sum of ₹60,000/- has been awarded to the parents of deceased – Randhawa, who was aged about 17 years. He was claimed to be a matriculate and wrestler carrying on the business of dairy farming, earning ₹4,000/- per month. As no documentary evidence had come on to the record in respect to his income, dependancy of the claimants was worked out at ₹500/- per month and ₹6,000/- per annum. A multiplier of 10 only was applied. Total sum of ₹60,000/- was awarded to the claimants of deceased – Randhawa. Nothing was

awarded on any other count. No appeal has been preferred by the claimants as per information supplied. Learned counsel for the appellants is unable to point out any factor which can lead to the reduction in the amount so awarded by the Tribunal.

Respondent No.1 – Ramesh who was injured in the said accident had pleaded an expense of ₹60,000 to 70,000/- on his treatment. It was averred that he was doing the work of painting, white wash etc., earning ₹3,000 to 4,000/- per month. However, no documentary evidence was produced to show the expenditure. Learned Tribunal taking note of the statement of PW5 Dr. Rakesh Girdhar to the extent that injured Ramesh suffered 100% disability, awarded a sum of ₹1,00,000/- on account of disability, ₹30,000/- qua medical expenditure and ₹1,20,000/- on account of loss earning. A total sum of ₹2,50,000/- was awarded as compensation to injured Ramesh.

Learned counsel for the appellant submits that there is no evidence on record to justify the compensation awarded. There is no disability certificate on record. Furthermore, bills regarding medical expenditure incurred had not been produced on record. There is nothing to suggest loss of earning of ₹1,20,000/-.

It is to be noticed that record in this case is not available having burnt in the fire which took place in the High Court premises on 30.01.2011. Learned counsel for the appellant also does not have the photocopies of the evidence. The Tribunal while announcing the award would obviously have had the necessary record/evidence in reference to which it has been held that PW5 Dr. Rakesh Girdhar has stated that injured Ramesh suffered 100% disability.

It is also not disputed that the claimants have not come forward for enhancement of the amount awarded.

Keeping in view the peculiar facts and circumstances of the case, it is not considered just and expedient to interfere with the amount of compensation awarded by the Tribunal, at this stage.

Accordingly, both the appeals are dismissed.

August 26 , 2015.
'om'

(LISA GILL)
JUDGE