

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 4171 of 2001

Date of decision : February 13, 2015

Balwan Singh

....Appellant

versus

M/s Northern Cargo Services and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Ms Manu Chaudhary, Advocate, for the appellant

Mr. Peeush Gagneja, Advocate, for respondent no. 1

Mr. Ravinder Arora, Advocate, for respondent no. 3

Respondent no. 2 – service dispensed with.

Fateh Deep Singh, J. (Oral)

It was on 3.6.1996, Jeep owned by claimant-appellant bearing registration No. HR-24-B-8895 being driven by one Krishan upon which one Kuldeep Singh was sitting met with an accident at about 8.30 PM with truck bearing No. WB25-2503 in the area of TTC Hisar. The present appellant challenged award dated 11.4.2001 of the learned Motor Accident Claims Tribunal, Hisar whereby the claim for damages to the jeep was

adjudicated and the learned Tribunal awarded Rs 16,000/- as compensation holding that the liability of the insurance company was limited only to Rs 6000/- which shall be paid by the insurance company and the remaining Rs 10,000/- shall be paid by the owner of the truck.

Upon hearing Ms Manu Chaudhary, Advocate, for the appellant, Mr. Peeush Gagneja, Advocate, for respondent no. 1 and Mr. Ravinder Arora, Advocate, for respondent no. 3 and on perusal of the records reconstructed as the original stood destroyed, it is not disputed by any of the sides that the jeep in question was 1983 model make Mahindra Diesel, established by registration certificate Ex. P105 and thus on the date of the accident it was around 13 years old. The law prescribes life span under Motor Vehicles Act of such vehicle to be 15 years and therefore, only two years of this life span of the vehicle was left and therefore, there ought to be consideration of depreciation. Though the learned Tribunal has considered the claim of the claimant, the vehicle was being used for commercial purposes for transportation of Tent articles quite contrary to the provisions of the law as it was only a passenger vehicle. The claim that the front portion of the jeep was totally damaged and he had to spent Rs 80,000/- besides buying new battery for Rs 4050/- has sought to prove by way of Ex. P86 and front tyres were replaced which costs him Rs 4500/- through Ex. P85 and that he had to spent Rs 300/- per day for transportation

and the only semblance of evidence and the report of Ram Bishnoi, Surveyor PW4 by way of Ex. P83 and claims that the same was based on the estimates taken from Supreme Mobile Private Limited by way of Ex. P84 and though has proved photographs Ex. P87 to P95 and corresponding negatives are Ex. P96 to P103 and claims that after deducting salvage value and depreciation, loss of Rs 31,000/- was assessed. The learned Tribunal keeping in view that as per the insurance of the vehicle qua third party claim insurer was only liable to the extent of Rs 6000/- and which could not be controverted on behalf of the appellant so argued by the respondents. It could not be pin pointed how and in what manner there has been wrong calculation of the compensation and was not fair and just since by way of statutory obligation, insurance coverage could not exceed Rs 6000/- for this damage certainly which has been rightly calculated that the remaining loss shall be shared by the owner of the offending truck. The calculation so arrived at by the Tribunal are fair and just and does not calls for any interference. The appeal being hopelessly without any merit, stands dismissed.

February 13, 2015
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(Fateh Deep Singh)
Judge