

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

FAO No.878 OF 2005 (O&M)
DATE OF DECISION : 1st SEPTEMBER, 2015

Parveen

.... Appellants

Versus

Parkash @ Kirpal Singh & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. K.S.Dhanora, Advocate for the appellant.

Mr. K. S. Cheema, Advocate for respondents No.2 & 3.

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SURINDER GUPTA, J. (ORAL)

1. This claim petition has been filed by Parveen, who suffered injuries in motor accident of vehicle Tata 407 with bus bearing registration No.JK-02-Y-0308 (later referred as offending vehicle). The matter was also reported to the police vide FIR No.56 dated 13.06.2003 registered at Police Station Kundli against respondent No.1 for offence punishable under Sections 279, 337 and 304A IPC.

2. The case of the claimant in brief is that on 13.06.2003, he along with Ram Kumar, Naresh, Balbir Singh and Virender were loading milk from a damaged vehicle No.DL-LC-6665 (Tata 407) into another vehicle DL-1LC-4962 in the area of Village Kundli Tehsil and District Sonapat. At about 3.30 am a bus bearing registration No.JK-02Y-0308 (later referred as offending vehicle) came from Panipat side. It was being driven by respondent No.1 in a rash and negligent manner and hit against Tata 407 (DL-1LC-4962) which further hit Tata 407 (DL-LC-6665).

Naresh and Virender got crushed between the two vehicles and died at the spot, while the claimant received injuries and was taken to Parnami Orthopaedic Hospital, G.T. Road, Kundli where he remained admitted from the date of accident to 19.06.2003. He was earning ₹5000/- per month salary as driver of a truck and was undergoing treatment even at the time of filing of the claim petition in the year 2003.

3. The respondents contested the claim petition in their separate written statement inter alia pleading that no accident had taken place due to the rash and negligent driving of the offending bus by respondent No.1. The claimants and others were loading milk from the damaged vehicle to another vehicle, without caring for the traffic rules and had not provided any indicator around a damaged vehicle. Even parking lights were not switched on, as required under traffic rules.

4. The Tribunal recorded the finding that the accident had taken place due to the rash and negligent driving of the offending vehicle by respondent No.1. While calculating the compensation for the claimant-Parveen, the Tribunal took into account following factors;

- i) The claimant remained admit in hospital from 13.06.2003 to 19.06.2003 and thereafter remained under treatment as outdoor patient for about four and half months.
- ii) As per the medical bills Exs. P-3 to P-47, he spend ₹56,600/- on purchase of medicine, fee of Doctors etc.
- iii) Claimant has suffered fracture in the clevical bone.
- iv) He suffered temporary disability which had later disappeared.

5. The compensation was allowed to the claimants as follows:

Sr.No.	Heads	Amount (₹)
1.	Medical Expenses	56600
2.	Temporary disability	10000
3.	Loss of income	10000
4.	Total	76600

6. This fact is not disputed that the claimant remained admitted in the hospital for seven days. He had suffered fracture in clevical bone. Even after his discharge from hospital he had been getting treatment as OPD patient. The Tribunal while allowing the compensation towards the medical expenses, disability and loss of income has not allowed any compensation towards pain and suffering, transportation charge, expenses of attended and special diet. No reason is made out to decline the compensation to the claimant for the above heads. Keeping in view the facts and circumstances as discussed above, in addition to the compensation already allowed the claimant is allowed ₹10,000/- towards pain and suffering, ₹5,000/- each towards special diet, transportation expenses and expenses of the attendant.

7. In view of the above discussion this claim petition is allowed and the amount of compensation allowed to the appellant for the injuries suffered by him in the motor accident is enhanced by ₹25,000/- (Rupees Twenty five thousand only). The claimant shall also be entitled to the interest on this amount at the same rate as allowed by the tribunal from the date of filing of the claim petition.

1st September, 2015
'raj'

(SURINDER GUPTA)
JUDGE