

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

(1) **Date of decision: 14.09.2015**
CM-16357-CII-2011 in/and
FAO-4407-2011 (O&M)

Gurdayal ..Appellant

Vs.

Rajdeep & Others ..Respondents

(2) **CM-16510-CII-2011 in/and**
FAO-4477 of 2011 (O&M)

(2)Sube Singh ..Appellant

Vs.

Rajdeep & Others ..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Gaur, Advocate
for the appellant.
(in both the appeals)

Mr. Sanjeev Goyal, Advocate
for respondent No. 3-Insurance Company.

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?

RITU BAHRI, J.
CM No. 16357-CII-of 2011

Reply on behalf of respondent No. 3 has been filed in
the Court. The same is taken on record.

For the reasons mentioned in the application, the same is allowed and the delay of 183 days in filing the appeal is condoned.

CM stands allowed accordingly.

FAO NO. 4407 of 2011(O&M)

This judgment will dispose of both the afore-mentioned appeals filed by Gurdayal and Sube Singh against the award dated 20.08.2010 passed by the Motor Accident Claims Tribunal, Jind, (hereinafter referred to as “the Tribunal”) whereby an amount of ₹10,000/- each has been awarded on account of injuries suffered by them in a vehicular accident in the present appeals, the claimants/appellants are seeking enhancement of compensation.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.12.2006, claimants/appellants-Sube Singh and his son Gurdayal Singh along with Chander, Gaje Singh, Ved and Satyawan etc., were going to attend the marriage party on the occasion of marriage of Joginder Singh son of Subhash in Village Sisar. After attending the marriage party, they were coming back to home in Tata 407 Canter bearing registration No. HR-33-0663. At about 11.00/11.15 pm, when the said vehicle reached in the area of Safa Kheri, suddenly a Truck bearing registration No. HR-55-9094 being driven by respondent No. 1-Rajdeep in rash and negligent manner, came from Uchana side and struck against

the TATA 407 Canter, as a result of which, it got turtled. All the occupants suffered injuries including claimants-appellants Sube Singh and his son Gurdayal Singh. They were taken to PGIMS, Rohtak for treatment. In this regard, on the statement of claimant/appellant, Sube Singh, FIR No. 310, dated 25/12/2006, under Sections 279/337/338 and 427 IPC was got registered at Police Station Uchana against respondent No. 1-Rajdeep. Consequently, the claimants/appellants filed a claim petition before the Tribunal.

Upon notice, respondent No.1-Rajdeep did not appear before the Tribunal and was proceed against exparte. Respondents No. 2 and 3 in their separate written statements denied the accident having been caused by respondent No.1-Rajdeep on account of rash and negligent driving of offending truck.

From the pleadings of the parties, following issues were framed by the Tribunal:-

1. Whether the accident in question took place due to rash and negligent driving of truck No. HR-55D-9094 driven by respondent No. 1 in which petitioners sustained multiple injuries as alleged in the petitions ?
OPP
2. If issue No. 1 is proved in affirmative, what amount of compensation the petitioners are entitled to and from whom?OPP.
3. Whether the respondent No. 1 was not holding a valid

driving license on the date of accident?OPR-3.

4. Relief.

The Tribunal, after going through the evidence led by the parties, returned a finding that the accident had taken place on account of rash and negligent driving of the truck by driver-Rajdeep-respondent No. 1. As a result of which the claimants/appellants have received injuries.

Compensation awarded to Gurdayal Singh

After examining the depositions of PW-4, Gurdayal Singh, PW-5, PW-7 and documents exhibit P-15, the Tribunal has awarded a sum of ₹ 1300/- on account of medical charges, ₹ 5,000/- on account of pain and sufferings, ₹ 1700/- on account of transportation charges and ₹ 2,000/- as diet. He was awarded ₹10,000 on account of the injuries suffered by him in the aforesaid accident.

Compensation awarded to Sube Singh

After examining the depositions of PW-2, Sube Singh, PW-4, PW-7 and documents exhibit P-7, the Tribunal has awarded a sum of ₹ 3300/- on account of medical charges, ₹ 5,000/- on account of pain and sufferings, ₹ 1700/- on account of transportation charges. He was awarded ₹10,000/- on account of the injuries suffered by him in the aforesaid accident.

Learned counsel for the appellants has further argued that the claimant-appellant Sube Singh has suffered a fracture on

right leg. Therefore, his compensation should be enhanced. In the absence of the any oral or documentary evidence, to show that he had suffered such injury, there is no ground to modify the compensation.

After going through the impugned award, this Court is of the view that the Tribunal has rightly assessed the compensation on the basis of evidence adduced by the parties. The evidence has been appreciated in the right perspective. No ground is made out to interfere in the impugned award passed by the Tribunal.

Resultantly, the present appeal is hereby dismissed.

September 14, 2015
Poonam (II)

(RITU BAHRI)
JUDGE