IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC No.16-CII of 2012 and
FAO No.4761 of 2011
Date of decision :30.09.2015

Ram Mehar ....Appellant

Vs.

Bal Kishan and Others ....Respondent

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present:- Mr.Gopal Sharma, Advocate,
for the appellant.

Mr.R.D.Yadav, Advocate, for
cross-objector/respondent No.2.

Mr.D.P.Gupta, Advocate for respondent No.3.

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<u>K.KANNAN, J.</u>

The appeal is for enhancement of compensation for damage caused to the building by the rash and negligent act of insured owner/driver. It was the case of a two storey which developed cracks in the building and some other girders of the roof had descended. Both sides examined engineers for making an assessment for the nature of damage caused to the building and the cost of repairs that would require to be incurred. The claimants' engineers gave evidence to the effect the building repair cost would be Rs.4,01,400/-. He had stated that the bent iron girders which lent support to the structures showed that the roof had become weak and unsafe. The assessment was that the building itself became unfit for human habitation under heavy impact of the collision by the truck.

Engineer examined on behalf of the Insurance Company stated quite to the contrary that the building was still safe and if only repairs were effected in the manner assessed in the report involving a cost of Rs.17,000/- the building could be made good. The Court assessed a compensation of Rs.40,000/-. I have no better materials before me than the grossly variant versions of the respective engineers. While the claimant stated that the building was constructed 4-5 years near to the accident, the respondent-Engineers certified that the property must have built at least 50-60 years earlier. The claimant did not file any proof of building plan and approval to correctly assess the cost of construction or repair of construction.

I increase the compensation to Rs.75,000/- from Rs.40,000/- and the additional amount will also attract interest at 9% from the date of petition till date of payment. The liability shall be on the Insurance Company. The award is modified and appeal is allowed to the above extent.

The Insurance Company will be liable for the same. I have the benefit of inspection of the insurance policy produced by the insured before the Court that shows that the insured had taken package policy and the limit of liability is Rs.7,50,000/-.

The owner is in cross objection against the liability fastened upon him. In view of the fact which is elicited from the insurance company, I discharge the owner to make available a full indemnity for the owner and allow the cross appeal treating it as an independent appeal.

(K.KANNAN)
JUDGE

30.09.2015
anil

ANIL KUMAR
2015.10.13 10:33
I attest to the accuracy and
integrity of this document