

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.5877 of 2012 (O&M)

Reliance General Insurance Company Limited
...Appellant

Versus

Krishna Devi and others

...Respondents

(2) FAO No.5878 of 2012 (O&M)

Reliance General Insurance Company Limited

...Appellant

Versus

Rameshwar alias Ramesh and others

...Respondents

(3) FAO No.2541 of 2013 (O&M)

Rameshwar alias Ramesh and others

...Appellants

Versus

Chatriya Singh and others

...Respondents

(4) FAO No.4876 of 2013 (O&M)

Krishna Devi

...Appellant

Versus

Chatriya Singh and others

...Respondents

Date of Decision: April 08, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Tejnder K. Joshi, Advocate for the appellant
(in FAO No.5877 of 2012 and FAO No.5878 of 2012) and
for respondent No.3 (in FAOs No.2541 and 4876 of 2013).

Mr.S.N.Yadav, Advocate
for the appellant (in FAO No.2541 of 2013) and
for respondent No.1 (in FAO No.5878 of 2012).

Mr.Sarvjit Singh Khurana, Advocate
for the appellant (in FAO No.4876 of 2013) and
for respondent No.1 (in FAO No.5877 of 2012).

Mr.Anil Kumar, Advocate for respondents No.2 and 3
(in FAOs No.5877 and 5878 of 2012),
for respondents No.1 and 3 (in FAO No.2541 of 2013) and
for respondents No.1 and 2 (in FAO No.4876 of 2013).

INDERJIT SINGH, J.

All the above-mentioned FAOs are taken up together being
arisen from same Award passed in two claim petitions.

FAOs No.5877 and 5878 of 2012 have been filed by
Reliance Genera Insurance Company Limited against respondents-
claimants, driver and owner of the offending vehicle challenging the
impugned Award dated 11.06.2012 passed by learned Motor Accident
Claims Tribunal, Rewari (hereinafter referred to as 'Tribunal') vide
which ₹8,03,340/- to claimant Rameshwar @ Ramesh (in MACT case
No.RT69 of 2010/12) and ₹18,82,879/- to claimant Smt.Krishna Devi
(in MACT case No.RT74 of 2010/12) along with interest @ 12% per
annum from the date of accident till the realization of the amount have
been awarded.

FAO No.2841 of 2013 has been filed by claimant-appellant
Rameshwar @ Ramesh and FAO No.4876 of 2013 has been filed by
claimant-appellant Krishna Devi for enhancement of the compensation
amount awarded to them as mentioned above.

Notice of motion in all the appeals have been issued and respondents appeared through their respective counsel and contested the appeals.

The brief facts of the case are that first claim petition has been filed by Rameshwar @ Ramesh stating therein that on 29.07.2009, he, on his motorcycle bearing registration No.HR-35C-6387 along with his uncle Ram Mehar as pillion rider, was returning home from Nandrampur Bass by observing all the traffic rules on the correct side of the road. In the meanwhile, at about 4.00 P.M., an Alto car bearing registration No.HR-26AM-1669, which was being driven by respondent-driver Chatriya Singh rashly and negligently in a zig-zag manner, came on the wrong side from Dharuhera side and directly hit the motorcycle, as a result of which, Rameshwar and his uncle Ram Mehar fell down on the road and suffered multiple and grievous injuries including fractures. After the accident, claimant Rameshwar and Ram Mehar were immediately taken to Apex Hospital, Dharuhera by one Ashok. Owing to his critical condition, claimant Rameshwar was admitted to Birendra Hospital, Rewari on 31.07.2009, where he was operated upon three times i.e. firstly for his arm, secondly for his knee and thirdly for his leg bone. Rameshwar got six months' plaster and he was advised by the doctor for six months' full bed rest. An amount of ₹1,25,000/- was spent on the treatment, special diet, attendant and transportation etc. He was about 33 years of age and earning ₹12,000/- per month as agriculturist and milkman. It is further stated that due to injuries

suffered in the accident, he had suffered a permanent disability besides suffering huge loss of income. FIR was registered against the driver of the car. It is also stated that respondent-Prempal Singh Raghaw is owner of the offending vehicle and respondent-Reliance General Insurance Company Limited is Insurer of the offending vehicle. He claimed ₹10 lacs as compensation.

In the second claim petition, Smt.Krishna Devi claimed ₹40 lacs regarding the death of Ram Mehar. It is stated that ₹20,000/- was spent on the treatment, special diet etc. The deceased Ram Mehar was 45 years old and earning ₹12,000/- per month by doing agriculture and dairy farming. He was the only bread earner of the family. It is further stated that claimant was fully dependent on the income of the deceased and she had also been deprived of love and affection of the deceased.

On the other hand, the case of respondent-driver is that no accident had taken place on the alleged date, time and place with the alleged vehicle and a false case had been lodged in the police station in collusion with local police to extract the money. Respondent-owner also took the same plea and stated that vehicle was not involved in the accident. It is further stated that the vehicle was insured with the Insurance Company.

Respondent-Reliance General Insurance Company Limited (in claim petition) filed its separate written statement stating there that no such accident had taken place and false FIR has been got registered in collusion of local police. It is further stated that driver

of the offending vehicle was not holding any valid driving licence.

Learned Tribunal after discussing the evidence on the record, held that it is established beyond any shadow of doubt that the accident in question did occur due to rash and negligent driving of respondent-driver on account of which claimant Rameshwar @ Ramesh and Ram Mehar did suffer multiple injuries and Ram Mehar expired due to multiple fatal injuries. The Tribunal disbelieved the version of respondents that no alleged accident had taken place. The Tribunal also relied upon the statements of the witnesses, eye witness as well as the copy of the FIR, MLR of Rameshwar @ Ramesh, copy of death certificate of Ram Mehar and further the report under section 173 Cr.P.C. filed by the police.

Learned Tribunal also relied upon the disability certificate placed on regarding Rameshwar @ Ramesh showing that claimant had suffered permanent disability to the tune of 62% on account of restricted movements of right elbow with pain. Therefore, the Tribunal granted ₹1,24,000/- as compensation to the claimant Rameshwar @ Ramesh on account of his permanent disability @ ₹2000/- per percent but the Tribunal also granted ₹6,20,000/- on the ground of pain and sufferings, loss of enjoyment etc. The Tribunal also awarded ₹42,880/- on the basis of medical expenses, loss of income @ ₹10,460 and special diet @ ₹6000/-. In no way, the amount awarded by the Tribunal in view of permanent disability of 62%, can be held as excessive but at the same time, this amount is also not liable to be enhanced because the amount of ₹6,20,000/- for pain and sufferings,

loss of enjoyment etc. also includes the future loss of income. It is settled law that compensation which is to be awarded by the Tribunal, should be just and adequate. The Tribunal has awarded just and adequate compensation regarding injuries to Rameshwar @ Ramesh.

Therefore, finding no merit in FAOs No.5878 of 2012 and 2541 of 2013, the same are dismissed.

As regarding FAO No.5877 of 2012 filed by the Insurance Company regarding the compensation given to Krishna Devi wife of Ram Mehar, I find that the Tribunal after discussing the evidence on record has taken the income of deceased Ram Mehar as ₹5230/- per month in view of the minimum wages as prescribed by the State of Haryana for unskilled workers. Therefore, in no way, this assessed income can be held as excessive. 1/3rd deduction has been made in view of the law laid down in ***Smt.Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 A.C.J. SC 1296***. Keeping in view the age of the deceased as 45 years at the time of accident multiplier of 14 has been applied correctly and amount comes to ₹5,85,760/- by multiplying annual dependency. The Tribunal also granted medical expenses @ ₹12,77,119/- which the claimant spent on medical treatment of the deceased. Deceased Ram Mehar died on 12.11.2009 whereas the accident took place on 29.08.2009 and he remained under treatment during this period. In no way, it can be held that any excess amount has been awarded by the Tribunal. Rather, the Tribunal has given only ₹5,000/- as funeral expenses whereas as per law down by the Hon'ble Supreme Court in ***Rajesh and others***

vs. Rajbir Singh and others, 2013(3) RCR (Civil) 170, the claimant is entitled to ₹25,000/- as funeral expenses. Similarly, loss of consortium @ ₹10,000/- has been awarded instead of ₹1 lac as per the law laid down in above-said judgment.

In view of the above discussion, FAO No.4876 of 2013 filed by the claimant Krishna Devi is allowed accordingly by increasing the compensation of funeral expenses from ₹5000/- to ₹25,000/- and loss of consortium from ₹10,000/- to ₹1 lac, whereas FAO No.5878 of 2012 stands dismissed.

April 08, 2015
Vgulati

(INDERJIT SINGH)
JUDGE