

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO No.2742 of 2013 (O&M)

Date of Decision: 24.03.2015

Mohinder KumarAppellant
Versus
Surjit Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers 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?

Present:- Mr. Dheeraj Narula, Advocate,
for appellant.

Mr. Ashok Khunger, Advocate,
for respondents No.1 and 2.

Mr. Sukhdarshan Singh, Advocate,
for respondent No.3.

SHEKHER DHAWAN, J

The present appeal is challenge to the Award dated 05.12.2012 by Motor Accident Claims Tribunal, Sirsa (hereinafter referred as 'The Tribunal').

2. Brief facts relevant for the purpose of decision of the present appeal that on 29.10.2010 Narender Kumar, appellant was going on tractor trolley and the tractor was being driven by Lal Chand. Truck bearing No.RJ19-1G-6912 came from back side. The said truck was being driven by Surjit Singh in rash and negligent manner and struck against the trolley. Resultantly, the tractor trolley turned turtle and Lal Chand fell in 'kaccha' portion of the road and Narender Kumar fell on the road and rear tyre of the truck ran over his leg. Narender Kumar was taken to hospital for treatment

and then to PGIMS Rohtak where he remained as indoor patient till 08.12.2010. He was again admitted in PGIMS Rohtak on 28.01.2011 and was discharged on 02.02.2011. Matter was reported to the police vide FIR No.735 of 31.10.2010. As per the claimant, the accident had taken place because of rash and negligent driving of respondent No.1 i.e. Driver of the truck and claimed compensation of ₹10,00,000/-.

3. The appellant has claimed compensation to the tune of ₹75,000/- on account of damage/loss caused to the tractor bearing registration No.HR24-A-4767.

4. 'The Tribunal' awarded the compensation to the tune of ₹5,000/- on account of damage to the tractor.

5. The appellant has taken the plea that 'The Tribunal' has not awarded the 'Just Compensation'. Mr. Dheeraj Narula, Advocate learned counsel for the appellant took plea that in the accident, tractor was badly damaged and bonnet, fender LH, steering wheel, seat pipe, steering rod assy, silencer assy, side seat and rear wind were damaged. The loss caused to the tractor was assessed by Mr. N.K.Gupta, Surveyor who appeared as PW-4 and assessed the loss to the tractor to the tune of ₹29,825/- as per his assessment report Ex.P-10. Photographs of damaged tractor are Mark A-1 to A-14 on the file. 'The Tribunal' had not awarded the 'Just Compensation' and the same be enhanced suitably.

6. Mr. Sukhdarshan Singh Advocate learned counsel for respondent No.3 Insurance company took the plea that 'The Tribunal' has already awarded 'Just Compensation' because the tractor was of 1992 model.

7. Having considered the rival contentions of learned counsel for the parties, this Court is of the considered view that taking the case from the

admitted facts. Tractor was of 1992 model and accident had taken place on 29.10.2010. 'The Tribunal' has correctly awarded the amount of compensation, keeping in view the depreciated value of the tractor and the fact that tractor was already 18 years old. It is a settled proposition of law that nobody is allowed to make fortune out of misfortune.

8. The present appeal being devoid of merits and the same stands dismissed.

**(SHEKHER DHAWAN)
JUDGE**

March 24, 2015
msd