

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

**F. A. O NO. 1597 OF 2015 (O&M)
DECIDED ON : 03.03.2015**

Shri Ram General Insurance Co. Ltd.

...Appellant

versus

Krishan Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Sanjeev Goyal, Advocate,
for the appellant.

K. C. PURI, J. (ORAL)

CM NO. 4587-CII OF 2015

The application stands allowed and delay of 83 days in filing the appeal stands condoned, for the reasons mentioned therein.

MAIN CASE

Shri Ram General Insurance Company Limited has directed this appeal in respect of the amount of compensation, challenging the award dated 28.08.2014 passed by Shri J. R. Chauhan, Motor Accident Claims Tribunal, Bhiwani, vide which claim petition preferred by respondent No.1 on account of injuries suffered by him in a motor vehicular accident, was accepted and compensation of ₹1,78,143/- along with interest @ 6% per annum was awarded to the claimant.

Briefly stated, Krishan Kumar-claimant (now respondent No.1) filed claim petition claiming compensation on account of injuries suffered by him in a motor vehicular accident.

It is alleged that on 15.03.2012 at about 1:00 PM, petitioner/claimant was going from Dadri to Jhajjar on his motorcycle bearing registration No. HR-19F-6177. When he reached near Haryana Hotel Imlota, one dumper bearing registration No. HR-57-2467 came from behind and struck against the pick up dala, as a result of which, the pick up dala skid towards road side and the truck struck against the motorcycle of the claimant. Due to this, the claimant suffered injuries on his left leg, right hand and right leg. The dumper after striking the pick up dala also hit another motorcycle upon which two persons were travelling. The claimant was first taken to General Hospital, Charkhi Dadri, but due to his serious condition, he was referred to General Hospital, Bhiwani. For better treatment, the claimant was taken to Ranvir Hospital,. Bhiwani, where he remained admitted from 15.03.2012 to 22.03.2012.

It is further pleaded that a sum of ₹1,00,000/- was spent on his treatment. It is further pleaded that the claimant became permanently disabled due to the injuries sustained by him in the accident. Therefore, a sum of ₹20,00,000/- has been claimed as compensation.

Notice of the claim petition was given to respondents.

Respondents No.1 and 2 filed joint written statement denying all

the allegations levelled in the claim petition. It was further pleaded that no alleged accident had taken place due to rash and negligent driving of respondent No.1. It was further pleaded that false and frivolous FIR was got lodged against respondent No.1 by the petitioner in collusion with the police.

Respondents No. 4 and 5 filed joint written statement taking preliminary objections that no accident took place with the alleged vehicle. It was further pleaded that respondent No.4 was driving his vehicle at a moderate speed and with full care and caution. It was further alleged that the respondents have been falsely implicated in the case in order to get compensation.

Respondents No.3 and 6 filed their joint written statement taking preliminary objections that no information regarding alleged accident was given to them. It was further pleaded that respondents No.1 and 4 were not holding valid and effective driving license at the time of accident. The other averments were denied.

Rejoinder was not filed. From the pleadings of parties, following issues were framed :

1. Whether accident causing injuries to claimant Krishan Kumar took place on 15.03.2012 due to rash and negligent driving of vehicle Dumper bearing registration No. HR-57-2467 by respondent No.1 Kuldeep or due to rash and negligent driving of vehicle Pick Up Dala bearing registration No. HR-19E-0356 by respondent No.4 Jagvinder Singh, as alleged ? OPP

2. If Issue No.1 is proved, whether claimant is entitled for compensation, if so, to what amount and from whom ? OPP
3. Whether respondents No.1 and 4 were not having a valid driving license at the time of accident ?
OPR 3 & 6
4. Relief.

In order to prove their case, claimant himself stepped into the witness box as PW-2 and examined Dr. Sanjeev Kumar as PW-1, Dr. S. S. Dhankar as PW-3 and closed the evidence.

On the other hand, respondents did not examine any witness and closed their evidence, after tendering certain documents.

The learned Tribunal, after appraisal of the evidence available on record, partly accepted the petition with costs and an award of ₹1,78,143/- was passed in favour of the claimant and against respondents No.1 to 3, along with interest @ 6% per annum from the date of filing the petition till its realisation. However, the respondents were held jointly and severally liable to pay the amount of compensation.

Feeling dissatisfied with the above said award dated 28.08.2014, the Insurance Company has preferred the present appeal.

Learned counsel for the appellant has submitted the amount of ₹60,000/- awarded in respect of costs of transportation, special diet, attendant and loss of income etc is excessive. It is further submitted that the claimant remained admitted in hospital from 15.03.2012 to 22.03.2012 only and as such, the said amount is on higher side.

I have carefully considered the said submission but do not find any force in the same.

The claimant suffered fracture and remained in hospital from 15.03.2012 to 22.03.2012. Even thereafter, he has to go for follow up. So, in these circumstances, the amount of ₹60,000/- in respect of costs of transportation, special diet, attendant and loss of income etc cannot be said to be on higher side.

The other challenge made by learned counsel for the appellant is in respect of ₹40,000/- granted by the Tribunal on account of pain and sufferings is also on higher side.

I have considered the said submission but do not find any force in the same.

As discussed above, claimant remained admitted in hospital for eight days and has to go for follow up. So, he must have gone through the pain and suffering during that period. It is proved on record that the claimant suffered fracture. So, in these circumstances, the amount of ₹40,000/- on account of pain and sufferings cannot be said to be on higher side.

No other point has been urged before me.

So, in view of the above discussion, the appeal is without any merit and the same stands dismissed with costs.

MARCH 03, 2015

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(K. C. PURI)
JUDGE