

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO NO. 3775 OF 2015 (O&M)  
DECIDED ON : 27.05.2015

National Insurance Company Limited

...Appellant

versus

Jai Pal and another

...Respondents

and

FAO NO. 3776 OF 2015 (O&M)

National Insurance Company Limited

...Appellant

versus

Inderjeet and another

...Respondents

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

Present : Mr. Lalit Garg, Advocate,  
for the appellant.

**K. C. PURI, J. (ORAL)**

Vide this common order, I intend to dispose of two appeals bearing **FAO No. 3775 of 2015** titled as, "**National Insurance Company Limited vs. Jai Pal and another**" and **FAO No. 3776 of 2015** titled as, "**National Insurance Company Limited vs. Inderjeet and another**", as the same have arisen out of the common Award.

Shorn of unnecessary details, the case of claimants is that on 29.11.2013, claimants Jai Pal and Inderjeet had gone to village Raipur Rani on motorcycle bearing registration No. HR-03-H-5854 for their personal work. Dinesh Kumar-nephew of claimant Jai Pal was also following them on his motorcycle. After finishing the work, both the claimants were returning to their houses on the above said motorcycle bearing No. HR-03-H-5854. The motorcycle was being driven by the claimant Jai Pal on the correct left hand side of the road and at a moderate speed. He was also following all the traffic rules and regulations. Inderjeet was sitting as pillion rider. When they reached on the turn of bridge of Tangri river on Panchkula, then one car bearing registration No. HP-17-B-2122 came from Panchkula side. The said car was being driven by the respondent at a very high speed and in a rash, negligent and zig-zag manner. The driver of the car struck his car against the motorcycle of claimants due to which both the claimants fell down on the metalled road along with the motorcycle and sustained severe and multiple injuries. The motorcycle was also damaged. In this regard, FIR No. 152 dated 30.11.2013 under Sections 279/337 of the Indian Penal Code was also registered at Police Station Raipur Rani.

The claimant Jai Pal pleaded in his claim petition that he was aged 46 years and was doing the job of labour work. He received multiple and greivous injuries including fracture of right leg and head injury. He was also operated upon for the said

injuries. He was taken to CHC, Raipur Rani from where he was referred to PGI, Chandigarh. He remained admitted in PGI, Chandigarh w.e.f 13.11.2013 to 13.12.2013. He further claimed that he spent a sum of ₹70,000/- upon his treatment and ₹15,000/- upon the repair of his motorcycle.

The claimant Inderjeet in his separate claim petition pleaded that he was aged about 45 years and was working as mason. He also received severe and greivous injuries including fracture of right leg. He was also operated upon for the injuries suffered by him in the accident. He was also taken to CHC, Raipur Rani from where he was referred to PGI, Chandigarh, where he remained admitted w.e.f 30.11.2013 to 11.12.2013. He further claimed that he spent ₹70,000/- on his treatment. He further claimed that ₹55,000/- more were required to be spent for removal of the iron rod and plates.

Upon put to notice, the owner and driver of the offending car i.e respondent No.1 filed written statement taking preliminary objections that the claim petitions were not maintainable as no accident had taken place with the said car. It was further pleaded that claimants have not impleaded driver, owner and insurer of the motorcycle.

Respondent No.2-Insurance Company filed separate written statement taking preliminary objections that the driver of the offending vehicle was not having a valid driving license. It was further pleaded that the vehicle in question was being used

in contravention of the terms and conditions of the insurance policy. On merits, it was pleaded that the amount claimed by the claimants was highly excessive. No information was given to the company either by the claimants or by respondent No.1.

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

- 1) Whether on 29.11.2013, claimants Jai Pal and Inderjeet sustained injuries in the accident in question, which took place due to rash and negligent driving of offending car bearing registration No. HP-17-B-2122 by respondent No.1 ? OPP
- 2) If Issue No.1 is proved, whether the claimants are entitled to any compensation, if so, to what amount and from whom ? OPP
- 3) Whether respondent No.1 was not holding a valid and effective driving license at the time of accident in question, if so, to what effect ? OPR-2
- 4) Relief.

In order to prove their cases, Jai Pal claimant appeared as PW-1, Inderjeet claimant appeared as PW-2 and they examined Dinesh Kumar-sole eye witness of the accident as PW-3, Dr. K. K. Bansal, SMO as PW-4 and closed the evidence.

On the other hand, both the respondents did not examine even a single witness and close their evidence after tendering documents.

The Insurance Company moved application under Section 170 of the Motor Vehicles Act which was allowed vide order dated 31.07.2014.

The learned Tribunal, after appreciating the evidence available on record, returned the findings on Issue No.1 in favour of the claimants. Claimant Jai Pal was allowed a sum of ₹3,60,000/- as compensation, whereas claimant Inderjeet was allowed a sum of ₹3,25,000/- as compensation vide Award dated 07.02.2015 passed by Shri Ravi Kumar Sondhi, Presiding Officer, Motor Accident Claims Tribunal, Panchkula.

Feeling dissatisfied with the above said Award dated 07.02.2015, the Insurance Company has preferred the afore mentioned two appeals.

Learned counsel for the appellant-Insurance Company has contended that it was a case of head on collusion and as such, at the most it is a case of contributory negligence. The Tribunal has not appreciated the evidence in right perspective.

I have carefully considered the submissions made by both the sides and have gone through the records of the case.

In this case, both the claimants appeared as their own witnesses and have deposed about the fact that accident had taken place due to rash and negligent driving of the offending car by respondent No.1. The claimants have also examined another witness Dinesh Kumar as PW-3 who was the also eye witness of the accident. The evidence of all the witnesses remained

unrebutted. In the absence of any evidence, it cannot be said that that it is a case of contributory negligence.

The second contention raised by learned counsel for the appellants is regarding quantum of compensation. It is submitted that monthly wages of the claimants have been taken on higher side. The amount of ₹2,70,000/- allowed in respect of loss of income is on higher side. In the case of claimant Inderjeet, the disability is to the extent of 20%. So, the amount of compensation calculated is on higher side.

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

The claimant Jai Pal is a labourer and he has suffered fracture of shaft femur and fracture pott's right side. It was further deposed that the injuries led to restriction of movements in right knee and right hip and the claimant, being a labourer, will certainly suffer loss on account of such type of disability. The claimant Jai Pal was admitted in the hospital from 30.11.2013 to 13.12.2013. In these circumstances, a sum of ₹3,60,000/- allowed as compensation, to Jai Pal cannot be said to be excessive. More so, when out of the said amount, ₹77,463/- were actually spent upon the treatment.

Similarly, claimant Inderjeet suffered grievous injuries. He was stated to be mason and suffered permanent disability of 25% . He remained admitted in hospital from 30.11.2013 to 11.12.2013. A sum of ₹36,715/- were actually spent upon his

treatment. He suffered fracture shaft of femur and fracture of neck of femur right side and lateral condyle of femur. There was also restriction in the movements at right knee and right hip. The disability would definitely hamper his normal functioning. In these circumstances, a sum of ₹3,20,000/- awarded as compensation cannot be said to be excessive.

No other point has been urged before me.

Consequently, both the appeals are without any merit and the same stand dismissed.

**MAY 27, 2015**  
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**(K. C. PURI)**  
**JUDGE**