

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4399 of 2015 (O&M)
Date of Decision: July 23, 2015

Shri Ram General Insurance Company Ltd.

...Appellant

Versus

Adarsh Bhakoo and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajbir Singh, Advocate for
 Mr.Sanjeev Goyal, Advocate
 for the appellant-Insurance Company.

INDERJIT SINGH, J.

Appellant Shri Ram General Insurance Company Ltd. has filed this appeal against claimant-respondent Adarsh Bhakoo, Hakam Singh, driver and Satwant Singh, owner of vehicle bearing registration No.PB-10DA-1170 (offending vehicle), challenging the impugned Award dated 24.03.2015 passed by learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'Tribunal'), vide which compensation of ₹1,57,000/- was awarded to the claimant along with interest @ 6% per annum from the date of filing of the petition till realization of the amount.

The brief facts of the case are that Adarsh Bhakoo filed claim petition against Hakam Singh, driver, Satwant Singh, owner and Shriram General Insurance Company Limited, Insurer of offending vehicle. As per the case of the claimant, on 27.10.2011 at about 12.00 a.m., he was going on motorcycle bearing registration No.PB-10CF-4904 of his employer towards Bahadurke from Shivpuri for

collection of payment and when he reached near petrol pump, a truck bearing registration No.PB-10DA-1170 being driven by its driver rashly and negligently, came from opposite side and struck against the motorcycle, due to which claimant fell down and rear tyre of the truck cross over his left leg. One Deepak Beri called the ambulance and took him to DMC Hospital, Ludhiana. Due to the accident, claimant suffered grievous injuries and multiple fractures on both legs. FIR was got registered. The claimant remained admitted in the hospital from 27.10.2012 to 03.11.2012 and is still under treatment. He spent ₹1,07,071/- upon his treatment. The claimant was 36 years of age and doing private job and earning ₹12,000/- per month.

Upon notice, respondents-driver and owner filed written statement mainly stating that no accident took place with the offending vehicle and they are totally innocent. Respondent-Insurance Company (present appellant) also contested the petition and stated that accident took place due to sole negligence of the claimant.

Issues were framed and on the basis of the evidence, learned Tribunal after holding the driver of the offending vehicle liable for rash and negligent driving and for the accident, decided the issues in favour of the claimants and granted ₹1,07,000/- which the claimant spent on his treatment and also awarded compensation of ₹50,000/- for mental pain and suffering etc.

At the time of arguments, learned counsel for the appellant-Insurance Company argued that compensation awarded by the Tribunal is on higher side and it is a case of contributory

negligence.

After hearing learned counsel for the appellant and after going through the record, I find that the Tribunal has awarded ₹1,07,000/- in round figure, which the claimant had actually spent on his treatment. Only ₹50,000/- has been given for mental pain, suffering etc. whereas it is the case of multiple fractures of legs. In no way, the compensation can be held as on higher side. Even the Tribunal has not given any compensation on ground of special diet, transportation charges, attendant charges etc. or future medical expenses etc.

As regarding the contributory negligence, I find that it is nowhere the case of the driver of the offending vehicle that accident took place due to negligence of the claimant. Rather, the driver and owner have denied the accident in toto. FIR has been registered. The eye witness has supported the version of the claimant that accident was caused by respondent-Hakam Singh due to rash and negligent driving of the offending vehicle. There is no evidence on the record that any witness has been examined by the respondents to show that it is a case of contributory negligence or sole negligence of the claimant.

In view of the above discussion, I do not find any merit in the arguments of learned counsel for the appellant.

Therefore, finding no merit in the present appeal, the same is dismissed.

July 23, 2015

Vgulati

**(INDERJIT SINGH)
JUDGE**