

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

1.

FAO No. 5810 of 2015(O&M)

Date of Decision: September 8 , 2015.

Chief Manager, Rajasthan State Road Transport Corporation

..... APPELLANT(s)

Versus

Mool Chand and others

..... RESPONDENT (s)

2.

FAO No. 5811 of 2015(O&M).

Chief Manager, Rajasthan State Road Transport Corporation

..... APPELLANT(s)

Versus

Anil Kumar and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anil Kumar Gahlawat, Advocate
for the appellant.

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?

LISA GILL, J.

This order shall dispose of FAO No.5810 of 2015 (Chief Manager, Rajasthan State Road Transport Corporation v. Mool Chand and others) and FAO No.5811 of 2015 (Chief Manager, Rajasthan State Road Transport Corporation v. Anil Kumar and others).

Abovenoted appeals are taken up together for hearing as they

emanate from a common award dated 16.01.2015 passed by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as, the 'Tribunal'). Facts are being taken from FAO No.5810 of 2015 for the sake of convenience.

Instant appeals have been preferred by the Chief Manager, Rajasthan State Road Transport Corporation, Hanumangarh Depot (Rajasthan) primarily challenging the quantum of compensation awarded to respondents – claimants.

Brief facts of the case are that, claimants – Mool Chand and Anil Kumar alongwith other passengers were travelling in bus bearing No. RJ-31PA-1155 on 17.05.2013. When they reached the area of village Moriwala near OHM, driver of the bus in which they were travelling fell asleep. A passenger raised alarm but before the respondent–driver, namely, Rajender Kumar could wake up, the bus went out of control and severed towards right side of the road and struck against a Shisham tree. Number of passengers including claimants suffered injuries on account of the rash and negligent driving of offending bus by respondent – Rajender Kumar. Mool Chand was shifted to General Hospital, Sirsa. Anil Kumar was brought to the hospital of Dr. Y.K.Chaudhary, Sirsa. FIR No.86 dated 17.05.2013 was registered under Sections 279/337/338/427 IPC at Police Station Ding at driver of the bus.

Claim petition No.85 of 29.07.2013 subject matter of FAO No.5810 of 2015 was preferred by injured – Mool Chand and claim petition No. 89 of 03.08.2013 subject matter of FAO No.5811 of 2015 was preferred by injured – Anil Kumar claiming compensation on account of the injuries as well as permanent disability suffered by them. Said claim petitions were contested by the respondents. Following issues were framed by the Tribunal:-

“1. Whether the accident in question resulting into injuries to petitioners Mool Chand and Anil Kumar had taken place on

- 17.05.2013 in the area of village Moriwala on account of rash and negligent driving of bus bearing registration number RJ-31PA-1155 by respondent No.1. If so to what effect ? OPP.
2. If issue No.1 is proved in affirmative, to what amount of compensation, the petitioners are entitled to and from whom? OPP.
 3. Whether the petitions deserve dismissal on the grounds mentioned in the written statements? OPR.
 4. Relief.”

Learned Tribunal on appreciation of the evidence on record specifically concluded that the accident had occurred on account of the rash and negligent driving of bus No.RJ-31PA-1155 by respondent – Rajender Kumar. Evidence on record in the shape of testimonies of injured PW1 Mool Chand and PW2 Anil Kumar find corroboration from FIR, Ex.P44 as well as report Ex.P45 under Section 173 Cr.P.C. filed against the driver. In FIR No.86, charge-sheet Ex.P46 was also produced on record.

Contention of learned counsel for the appellant that fair investigation was not carried out because the offending bus was of a different State is without any substance. Driver Rajinder Kumar RW1, while pleading false implication has admitted that he never approached any higher authorities or any police/departmental officials pleading false implication. He himself sustained injuries in the accident. Furthermore, it is a settled position that it is the preponderance of probabilities that has to be seen by the Tribunal/court in the proceedings under the Motor Vehicles Act. Proof beyond reasonable doubt is not to be sought. Registration of the FIR, in the absence of any other evidence, is *prima facie* proof of negligence of the drivers. Reference in this respect can be gainfully made to decision of Hon'ble Supreme Court in **Parmeshwari v. Amir Chand and others**, 2011(2) RCR(Civil) 153. There is no evidence to the

contrary on record, which would point to any perversity or infirmity in the finding returned by the Tribunal on this count.

Learned counsel for the appellant is unable to point out any infirmity or discrepancy which warrants interference of this Court for reduction in the amount of compensation awarded to the claimants.

In the case of claimant – Mool Chand, disability certificate, Ex.P30 was proved by PW12 Dr. Kuldeep Sain assessing partial disability to the extent of 10%. Compensation on account of medical expenses has been awarded as per the bills supplied. No amount has been awarded on account of loss of future earning as no such evidence was led by the claimant.

A sum of ₹3,46,446/- has been awarded by the Tribunal to claimant – Mool Chand as detailed below:-

(i) Disability	=	₹10,000/-
(ii) Medical bills	=	₹2,99,446/-
(iii) Loss of earnings	=	₹25,000/-
(iv) Pain and sufferings	=	₹10,000/-
(v) Special diet	=	₹2,000/-

Total :		₹3,46,446/-

Similarly, in the case of claimant – Anil Kumar, there was temporary physical impairment to the extent of 25% as per disability certificate, Ex.P29 proved by PW12 Dr.Kuldeep Sain. No component has been considered for loss of future earning qua the said claimant as well.

In respect to claimant – Anil Kumar, a sum of ₹2,39,057/- has been awarded by the Tribunal as compensation on account of the injuries suffered by him as detailed below:-

(i) Disability	=	₹25,000/-
(ii) Medical bills	=	₹1,94,057/-
(iii) Loss of earnings	=	₹8,000/-

(iv) Pain and sufferings	=	₹10,000/-
(v) Special diet	=	₹2,000/-

Total :		₹2,39,057/-

A valiant effort has been made to argue that an unreasonably high amount has been awarded to the claimants but learned counsel is unable to substantiate the same from the evidence on record.

Keeping in the facts and circumstances of the case, I find no ground for reduction in the amount of compensation awarded to the claimants by Motor Accident Claims Tribunal, Sirsa vide impugned award dated 16.01.2015.

Consequently, both the appeals are dismissed.

September 8 , 2015.
'om'

(LISA GILL)
JUDGE