

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

FAO-5795-2011
with XOBJC-22-CII-2012 (O&M)
and connected appeals & Cross-objections

Date of Decision: July 15, 2015

Gurjant Singh and another

...Appellants

Versus

Jai Krishan and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Inderjit Sharma, Advocate,
for the appellants.

Mr. Pankaj Katia, Advocate,
for respondent No. 1/Cross-objector

Mr. Harsh Aggarwal, Advocate,
for respondent No. 2.

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?*

NARESH KUMAR SANGHI, J (Oral)

Vide this common judgment, this Court proposes to
dispose of a bunch of four appeals* and three cross-objections*,

since they have arisen out of one and the same accident.

As per the material available on record, Darshan Lal (since deceased), Jai Krishan (injured), Anita Gupta (injured) and Ankit Gupta (AW-1) were traveling in a Maruti Zen car bearing Registration No. DL-3CAD-3978, being driven by Amarjit Singh (since deceased). On 26.4.2008, at about 7:30 a.m., in the area of village Lehra Bega, District Bathinda, a bus, bearing Registration No. PB-12-E-9681, being driven by Gurjant Singh (appellant No.1), which was owned by M/s Tallewal Bus Service Regd., Barnala (appellant No. 2), hit car No. DL-3CAD-3978 and as a result thereof Amarjit Singh, the driver of the car and Darshan Lal sustained fatal injuries and died while Jai Krishan, registered owner of the car, and Anita Gupta sustained simple and grievous injuries.

The dependants of Darshan Lal and Amarjit Singh as well as Jai Krishan and Anita Gupta (injured persons) filed four separate claim petitions before learned Motor Accidents Claims Tribunal, Bathinda (for brevity, 'the Tribunal'). In MACT Case No. 109, dated 22.9.2008, R.T. No. 04, dated 4.4.2011 (Anita Gupta v. Gurjant Singh and others), filed by Anita Gupta, learned Tribunal passed the following order on 20.11.2009:-

“Statement of one AW Ankit Gupta is recorded. Out of same accident four claim petitions have been filed. In order to save time of the Court as well of the parties, it (is?) deemed fit and proper the (to?) record evidence in one case i.e. Anita Gupta v. Gurjant Singh, and that evidence can be read as it is in other claim petitions. The case is adjourned to 2.12.2009 for evidence of claimants.”

In order to prove their case, the claimants examined Ankit Gupta (an eye-witness) as AW-1 in all the four cases; and Jai Krishan as CW-2; Anita Gupta as CW-2 and Kirna as AW-2, in their respective claim petitions. Certain documents were also tendered, to be read in evidence. The interim (*zimni*) orders passed by learned Tribunal in Anita Gupta's case would reveal that the respondents had examined Gurjant Singh as RW-1 and Jugraj Singh as RW-2, to rebut the case set up by the claimants. Certain documents were also tendered by them in evidence.

Learned Tribunal vide its four independent awards, partly accepted all the four claim petitions.

The driver and owner of the offending bus challenged all the four awards vide FAO Nos. 5795, 5796, 5797 and 5798, all of 2011, while the claimants, except the dependents of Amarjit Singh (since deceased), have also filed cross-objections, as

detailed in the footnote of this judgment, for modification of the award and enhancement of the compensation.

Learned counsel for the appellants, has vehemently argued that the accident in question had taken place due to the rash or negligent driving of the car on the part of Amarjit Singh (since deceased), whereas learned Tribunal has returned the finding that the negligence was on the part of the driver of the offending bus. He further submits that while passing the awards in the cases filed by dependents of Darshan Lal (since deceased) and Amarjit Singh (since deceased); and Jai Krishan (injured), learned Tribunal has failed to consider the evidence led by the respondents, in the shape of Gurjant Singh (RW-1) and Jugraj Singh (RW-2), which has materially prejudiced the case of the driver and owner of the offending bus.

Learned counsel for the respondents have not been able to show any material on record to controvert the submissions made by learned counsel for the appellants.

With the assistance of learned counsel for the parties, the photocopies of the records received from learned Tribunal have been perused. In all the four awards, except in the award passed in the case of Anita Gupta, learned Tribunal has mentioned that no evidence in defence was produced by the

respondents before it, which appears to be factually wrong. Once the learned Tribunal had passed order dated 20.11.2009 in Anita Gupta's case, where consolidated evidence was ordered to be recorded in all the four cases, in that eventuality the evidence led in defence by the respondents before the Tribunal, should be read in all the four cases, which learned Tribunal has failed to appreciate.

Learned counsel for the respondent/claimants and insurance company of the car, though initially submitted to appreciate the defence evidence by this Court, but later realized that it will lead to complication and that in case any contrary findings are recorded by this Court, then either party would be prejudiced.

In this view of the matter, it would be most appropriate to set aside all the four impugned awards and to remit the cases to the Tribunal either for passing a consolidated award in all the four claim petitions or to pass separate fresh awards after considering the evidence led by all the parties.

Learned counsel for the appellants is also agreeable to the above proposal.

This Court is also of the considered view that learned Tribunal has failed to appreciate the defence evidence in the

shape of RW-1 and RW-2 and, hence, the grievance shown by the driver and owner of the offending bus is genuine and, as such, all the four impugned awards passed by the Tribunal in MACT Case Nos. 108, dated 22.9.2008 (Jai Krishan v. Gurjant Singh and others); 109, dated 22.9.2008 (Anita Gupta v. Gurjant Singh and others); 110, dated 22.9.2008 (Neeru Gupta and others v. Gurjant Singh and others); and 132, dated 8.12.2008 (Kirna and others v. Gurjant Singh and others) are set aside. The cases are remitted to learned Tribunal for passing a consolidated award or separate awards in each case, as it may deem fit after taking into consideration the whole material available on record.

It is, however, made clear that this Court is not remanding the cases for recording the evidence afresh.

Since the accident had taken place in the year 2008 and the matter is lingering on for the last seven years, it is expected that learned Tribunal would expedite the matter.

Learned counsel for the respondent/cross-objector(s) submits that since the appeals filed by the driver and the owner of the offending vehicle have been partly allowed and the matter has been remitted to learned Tribunal, therefore, he may be permitted to withdraw all the three cross-objections at this stage with permission to file fresh one after the award passed by

learned Tribunal, if such a necessity arises. Ordered accordingly.

It is also made clear that this Court has not commented on the merits of the case.

The parties to the *lis* through their counsel shall appear before learned Tribunal on 17.8.2015.

A copy of this judgment be communicated to learned Tribunal at the earliest and one copy each be placed on the files of connected appeals.

(NARESH KUMAR SANGHI)
JUDGE

July 15, 2015
Pkapoor

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Sr. No.	Case No.	Title
1.	FAO-5795-2011 with XOBJC-22-CII-2012	Gurjant Singh and another v. Jai Krishan and another
2.	FAO-5796-2011 with XOBJC-23-CII-2012	Gurjant Singh and another v. Anita Gupta and others
3.	FAO-5797-2011 with XOBJC-24-CII-2012	Gurjant Singh and another v. Neeru Gupta and others
4.	FAO-5798-2011	Gurjant Singh and another v. Kirna Rani and others

(NARESH KUMAR SANGHI)
JUDGE

July 15, 2015
Pkapoor