

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

FAO-7222-2010 (O&M)
Date of decision: 01.03.2016

Harjit Singh ...Appellant

Versus

Smt. Bhuma Devi and others ...Respondents

FAO-5491-2010 (O&M)

Smt. Bhuma Devi and others ...Appellant

Versus

Sarabjit Kaur and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanjay Jain, Advocate
for the appellants in FAO No.5491 of 2010 &
for respondents No.1 to 3 in FAO No.7222 of 2010.

Mr. Hitesh Pandit, Advocate,
for the appellants in FAO No.7222 of 2010 &
for respondent No.5 in FAO No.5491 of 2010.

Mr. P. P. Sharma, Advocate
for the respondent-Insurance Company.

JITENDRA CHAUHAN, J.

CM-31501-03-2010 in FAO No.7222 of 2010

Heard.

CM applications are allowed, for the reasons mentioned
therein and the delay of 167 days in refiling and 12 days in filing
the appeal are condoned.

Main cases

The appeal filed by the driver of the trailer bearing registration No.HR-38-G-2251 is directed against the award passed by the learned Motor Accident Claims Tribunal, Ambala, ('the Tribunal', for brevity) vide award dated 27.01.2010, whereas the appeal i.e. FAO No.5491 of 2010 has been filed by the claimant for enhancement of the amount of compensation awarded by the learned Tribunal vide aforesaid award.

2. On behalf of the appellants-claimant it is contended that the injured-deceased Charanjit Singh had suffered serious crushed injuries over his right leg resulting into amputation. The learned Tribunal has ignored the fact that the injured remained hospitalised from 27.02.2007 to 04.04.2007.

3. On the other hand, the learned counsel for the appellant-owner states that the learned Tribunal has erroneously fastened the liability upon the owner and the driver respondent No.5, of the offending trailer on the ground that the driving licence and the route permit of the trailer was not brought on record. The learned Tribunal has not considered the route permit, Ex.RX. The learned counsel cites '**Pepsu Road Transport Corporation Vs. National Insurance Co. Ltd.**', 2013 ACJ 2440, '**National Insurance Co. Ltd. Vs. Santosh and others**', 1999 ACJ 1262 and '**IFFCO Tokio**

General Insurance Co. Ltd. Vs. Sunita Mishra and others'.

4. The learned counsel for the insurance company submits that the respondent No.5, the driver, Lakhwinder Singh was not holding a valid and effective driving licence at the time of accident.

5. I have heard the learned counsel for the parties and perused the record.

6. The learned Tribunal has awarded Rs.21,000/- towards pain and suffering, which keeping in view the injuries suffered by the injured-deceased Charanjit and keeping in view the fact that twice amputations was carried out in the course of the treatment as is made out from the statement of PW4, Dr. M. M. Datta is inadequate. Therefore, the amount deserves to be enhanced to another amount of Rs.1,00,000/- under this head. No amount has been awarded towards attendant charges. Accordingly, an amount of Rs.25,000/- is awarded under this head.

7. In view of the above, the claimants-appellant in FAO No.5491 of 2010 are held entitled to the enhanced compensation of Rs.1,25,000/-, as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to

interest @ 7.5% p.a., from the date of filing the present appeal, till its realization. With this modification in the impugned award, this appeal is partly allowed.

8. In FAO No.7222 of 2010, the learned Tribunal has passed the impugned award after appreciating the facts that the driver of the trailer was not having a valid driving licence and the appellant-owner failed to bring on record any cogent evidence with regard to route permit. Therefore, the appeal preferred by the owner is hereby dismissed.

01.03.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**