

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

FAO No.2613 of 2001 (O&M)

Dharmender

...Appellant

Versus

Mukesh Kumar and others

...Respondents

AND

FAO No.2615 of 2001 (O&M)

Ram Kumar

...Appellant

Versus

Mukesh Kumar and others

...Respondents

Date of Decision: September 08, 2017

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Mani Ram Verma, Advocate assisted by
Mr.Nipun Verma, Advocate for the appellants.

Mr.R.N.Singal, Advocate for
Insurance Company – respondent No.3.

HARINDER SINGH SIDHU, J.

This judgment shall dispose of two appeals: FAO No.2613 of 2001 filed by Dharmender, owner of Gypsy bearing No.HRS-45 for the enhancement of compensation awarded for the damage caused to his vehicle and FAO No.2615 of 2001 filed by Ram Kumar seeking enhancement of compensation awarded for the injuries suffered by him.

Factual background of the matter is that on 7.5.1998, appellant

Ram Kumar along with others was returning from Hisar to Bhiwani in Gypsy bearing No.HRS-45, driven by one Harish Batra. At about 6.00 A.M., when the Gypsy reached near Tosham Octroi Post, a TATA four-wheeler bearing No.RJ-23/G-0532 being driven in a rash and negligent manner by respondent No.1 Mukesh Kumar came from Tosham side at a very high speed and struck on the back side of the Gypsy, as a result of which the steering and brake of the Gypsy went out of order and it fell in the ditches, causing injuries to Ram Kumar and others. The vehicle was also badly damaged in the accident. The injured were shifted to General Hospital, Bhiwani. On the allegations that the accident was caused due to rash and negligent driving of the four-wheeler by Mukesh – respondent No.1, FIR No.112 dated 9.5.1998 was registered against him under Sections 279, 337 and 427 IPC in Police Station Tosham.

Two claim petitions were filed; one by Ram Kumar seeking compensation for the injuries and another by Dharmender seeking compensation for the damages to the Gypsy, before Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal'), wherein, compensation of Rs.30,000/- and Rs.15,000/- was awarded to Ram Kumar and Dharmender, respectively.

Feeling dissatisfied with the quantum of compensation, the present appeals have been filed.

I have heard Ld. Counsel for the parties and perused the records with their assistance.

Ram Kumar – injured was working as Deputy Superintendent of

injuries in the accident, including fracture of left acetabulum, tibial plateau and had to remain admitted in PGIMS, Rohtak from 7.5.1998 to 26.6.1998 i.e. for about 50 days. He could join his duties only on 3.1.1999 after he was declared fit to do so. i.e. after about eight months.

Considering the above injuries, the Tribunal awarded Rs.10,000/- towards medical expenses, Rs.10,000/- as general compensation towards attendant, taxi fare, etc. and Rs.10,000/- towards pain and sufferings. In all, Rs.30,000/- along with interest were awarded as compensation.

It has come in evidence that the injured remained admitted in the Post Graduate Institute of Medical Sciences for about 50 days and he was unable to walk and remained on bed, and could join his office only after eight months of the accident i.e. on 3.1.1999 after having been declared fit. It has also come in evidence that the injured visited the hospital for about 10 times after discharge. In these circumstances, the compensation awarded appears to be on lower side, which needs to be re-assessed as under:-

Head	Compensation amount (in rupees)
Medical Expenses (as awarded by the Tribunal)	10,000/-
Attendant Charges	20,000/-
Transportation Charges	15,000/-
For pain and suffering	35,000/-
TOTAL COMPENSATION	80,000/-

Coming to the case of damage to the Gypsy, the appellant Dharmender in his cross-examination failed to give even the details of expenses, incurred on the repair of the Gypsy. Though, PW4 Veer Bhan,

proprietor of a workshop, was also examined to prove the expenses of repair, but he too failed to produce any ledger or counter-book or carbon copy of any bill. However, the fact remains that the Gypsy had gone into the ditches and its occupants were injured, therefore, necessary repairs must have been carried out, for which the compensation of Rs.15,000/-, about 20 years back, is just and reasonable.

Accordingly, FAO No.2613 of 2001 qua the damage to the Gypsy is dismissed, whereas, FAO No.2615 of 2001 qua the injuries to Ram Kumar is allowed and the Award of the Tribunal is modified to the extent that the appellant is held entitled to total compensation of Rs.80,000/-, that is, Rs.50,000/- (80000-30000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

September 08, 2017

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes / No
Whether Reportable	Yes / No