

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1195 of 2010 (O&M)

Date of Decision:13.09.2017

Manjit Kaur

.....Appellant

Versus

Gurmel Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sarthak Gupta, Advocate for
Mr. Animesh Sharma, Advocate
for the appellant.

None for respondents No. 1 and 2.

Mr. S.S. Joshi, Advocate
for respondent No.2.

AVNEESH JHINGAN, J.

The present appeal is filed against the award dated 18.2.2009 passed by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal).

This was burnt case and has been reconstructed from the salvaged record and copies supplied by counsels subject to all just exceptions.

The present appeal has been filed by Manjit Kaur wife of Surjit Singh.

The brief facts are that on 30.1.2007 a car bearing registration No.PB-11-AB-1774 was struck by bus bearing registration No.PB-13-G-8486 (for short 'the offending vehicle). The car was badly damaged and got repaired from A.B. Motor Private Limited, Patiala. FIR No. 8 dated 30.1.2007 was lodged at Police Station Mullepur, District Fatehgarh Sahib.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was moved claiming damages of ₹ 2,00,000/-

which include mental agony, harassment and repair to the damaged car.

I have heard learned counsel for the parties and perused the paper book.

There is no dispute on the facts. The accident occurred due to rash and negligent driving of the offending bus. In the said accident, the car was damaged. The bus was only having 3rd party Insurance. There was no serious dispute about Ex.P4 repair bill produced before the Tribunal which showed that ₹ 1,07,233/- was spent for repair of the car.

The only dispute is that the Tribunal while disposing of the claim petition held that under Section 147 of the Act, the liability of Insurance Company is only upto ₹ 6000/- hence only this amount shall be paid to claimant.

Learned counsel for the appellant argued that there is no dispute with the proposition that the liability of the Insurance Company is restricted to ₹ 6000/- in case of 3rd party Insurance. But the issue is that the owner and driver cannot be absolved of their liability simply because Insurance was 3rd party. In case of 3rd party insurance, the liability of the Insurance Company is restricted upto ₹ 6000/-, but rest of the liability is of the owner and driver jointly and severally.

The Tribunal erred in holding that as the liability of the Insurance Company is restricted to ₹ 6000/-, therefore the claimant shall be paid only ₹ 6000/-.

Learned counsel for the respondent No. 3 has argued that for proving the bill Ex.P8, the claimant had not produced any person proving the bill. Learned counsel further contended that the mechanic who repaired the car was also not produced.

I have heard learned counsel for the parties and perused the paper book.

The legal position is settled that the owner, driver and insurance company are jointly and severally liable to compensate the damages. Even at this stage, this proposition has not been disputed by either side. The claimant had been able to prove that the Car was damaged as a result of the accident. The bill for repair of car from A.B. Motors, was also produced. Navdeep Singh-PW2 also deposed that the loss to the Car was of ₹ 1,07,233/-. The proceedings before the Tribunal are summary in nature. The evidence produced with regard to repair of the Car was sufficient. No serious objection was raised by the respondents with regard to the quantum of damages.

In such circumstance, the claimant is entitled to damage of ₹ 1,07,233/-. Even if the Insurance Company was liable to pay ₹ 6000/- the driver and owner are jointly liable to pay the balance amount. If Insurance Company has already paid ₹ 6000/-, the same would be deducted. Further an amount of ₹ 20,000/- for legal expenses and mental agony are awarded. Since the liability of the Insurance Company was limited and the accident pertains to the year 2007, the amount awarded has been arrived at while considering the interest aspect as required under Section 171 of the Act.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

13.09.2017
reema

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No