

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

1. XOBJC-64-CII-2013 in/and
FAO-6787-2011 (O&M)
Date of decision: 15.12.2017

Usman and others Appellants

Versus

Mazid and others Respondents

2. XOBJC-63-CII-2013 in/and
FAO-6788-2011 (O&M)

Umar Mohd. Appellant

Versus

Mazid and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Ashish Gupta, Advocate
for the appellants.

Mr.S.K.Bawa, Advocate
for the respondents No.1 to 3/cross-objectors.

Mr.Sanjiv Pabbi, Advocate
for respondent No.4-Insurance Company.

Avneesh Jhingan, J.

XOBJC-64 & 63-CII-2013

Learned counsel for the cross-objectors prays that he may be permitted to withdraw the cross-objections so that he can avail his remedies available under the law.

Dismissed as withdrawn as prayed for.

FAO-6787 & 6788 of 2011

The present two appeals have been filed against the award dated 27.08.2011 passed by Motor Accidents Claims Tribunal, Nuh (hereinafter referred to as the 'Tribunal').

In an unfortunate accident that occurred on 29.03.2009, Irshad, aged 18 years lost his life and Usman, Sahil, Abdul Rehman @ Shamsheer, Rizwan and Umar Mohd. suffered injuries. The deceased and the injured were occupants of the Maruti Van bearing registration No.HR-05G-3085. The said van was struck by a rashly and negligently driven tractor bearing registration No.HR-28-A-5769 (for short, 'the offending vehicle'). FIR No.110 of 2009 was registered at Police Station Hodal.

The claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') were filed.

The above said two appeals are filed by the injured for enhancement of the compensation. The Tribunal had awarded a sum of Rs.80,000/- to Umar Mohammad, Rs.85,000/-to Usman, Rs.25,000/- to Abdul Rehman, Rs.10,000/- to Rizman and Rs.15,000/- to Sahil. The above said amounts were awarded along with interest @6% per annum.

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

The parties have not disputed the facts regarding involvement of the offending vehicle and rash and negligent driving of the offending vehicle.

Learned counsel for the appellants submits that out of the five injured, four were minors. The amount awarded is on the lower side. The amounts have been awarded on a mere guess work.

Learned counsel for the Insurance Company has argued that just and equitable compensation has been awarded as per the evidence produced. He further contended that the medical expenses proved on record were reimbursed. He resisted any further enhancement.

The factum of injuries has not been disputed. Four injured were minor and had to undergo treatment. While awarding compensation the pain and suffering should be considered. One of aspect to be taken into account is that appellants have not suffered because of any wrong done by them but because of act of a wrong doer.

Keeping in view the facts and circumstances of the case, the amount awarded by the Tribunal to Umar Mohd. is enhanced by Rs.50,000/-, to Usman by Rs.50,000/-, to Abndul Rehman by Rs.25,000/-, to Rizwan by Rs.10,000 and to Sahil by Rs.15,000/-. It is clarified that while awarding the said amounts, the interest to be awarded under section 171 of the Act has also been taken into consideration.

The appeals are partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

15.12.2017
anju

1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No