

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision : 23.01.2017

(1) FAO No. 2292 of 2013 (O&M)

Dev Darshan & anr.

....Appellants

V/s

Daya Nand & anr.

....Respondents

(2) FAO No. 75 of 2013 (O&M)

Dayanand

....Appellant

V/s

Dev Darshan & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Balraj Gujjar, Advocate
for the appellants in FAO No. 292 of 2013
and respondent no. 1 in FAO No. 75 of 2013.

Mr. R.N. Singhal, Advocate
for the appellant in FAO No. 75 of 2013
and respondent no. 1 in FAO No. 2292 of 2013.

Ms. Vandana Malhotra, Advocate
for the respondent no. 2-Insurance company.

RAJAN GUPTA J.

This order will dispose of aforesaid two appeals, one having been filed by claimants and the other by owner-cum-driver of the offending vehicle.

While the claimants are dis-satisfied with the compensation granted by tribunal, owner-cum-driver denies his liability to pay compensation on the ground that he had a valid driving license at the time of

accident. Thus, tribunal in the first place, ought to have directed the insurance company to indemnify the claimants with rights, if any, to recover from the owner.

I have heard learned counsel for the parties.

It appears that an accident took place on 10.09.2010. At about 12.30 p.m. claimant-Dev Darshan was going on his motorcycle to market of Sector 13, Bhiwani. A bolero vehicle was parked in front of House No. 1524, Sector 13 Bhiwani. As the claimant-Dev Darshan was crossing the Bolero vehicle, driver of said vehicle started the same in a rash and negligent manner and struck against his motor-cycle. In the ensuing accident, claimant- Dev Darshan received serious injuries. He preferred a claim petition before the tribunal. For the medical bills, disability, costs of transportation, special diet, attendant and loss of income etc. tribunal awarded a sum of ₹1,43,526/- as compensation to claimant-Dev Darshan. A perusal of the judgment shows that compensation has been correctly assessed by the tribunal. Sufficient amount has been granted in view of nature of injuries suffered by the claimant-Dev Darshan.

As regards plea raised by owner that he was holding a valid driving license and the vehicle was not used as a Taxi at the time accident occurred, I find no merit in the same. It is on record that appellant (owner) was authorized to driver motor cycle, LMV-non transport vehicle only. He was not holding a valid and effective driving license to ply transport vehicle. In the facts and circumstances of the case, I find no merit in the plea that tribunal ought to have directed the insurance company to indemnify the claimants with recovery rights. At this stage, appellant (owner) seeks to lead

additional evidence to produce certain documents. I reject this plea as he

had ample opportunity to lead evidence before the tribunal as proceedings remained pending for more than one year. This would amount to reopening of the entire case and reappraisal of the evidence.

In view of observations made above, aforesaid two appeals are hereby dismissed.

As both the appeals have been dismissed, applications for condonation of delay in filing and refilling the appeals do not survive.

January 23, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No