

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

FAO No.3692 of 2013 (O&M)

Date of decision: 29.08.2017

The Oriental Insurance Company Ltd.

....Appellant

Versus

Amritpal Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Anamika Mehra, Advocate,
for the appellant.

None for the respondents.

RITU BAHRI J. (Oral)

CM-14960-CII-2013

In view of the averments mentioned in the application, same is allowed and delay of 22 days in filing of the appeal is condoned.

FAO No.3692 of 2013

The Oriental Insurance Company Ltd.-appellant has filed this appeal against the award dated 06.03.2013 passed by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.79,565/- has been awarded in favour of claimant-Gaurav Gaba (respondent No.3 herein) on account of injuries received by him in a motor vehicular accident which took place on 23.02.2008.

Brief facts of the case are that on 23.02.2008, claimant-respondent No.3 was coming from Sector 36, Chandigarh. When he

reached near the light point of Sector 36/37, a Tata Indica car bearing

registration No.HR-68-T-4430, being driven by Amritpal Singh-respondent No.1 in a rash and negligent manner, came from the side of Mohali and struck against him, as a result of which, claimant suffered multiple fractures on his left leg and arm. After the accident, he had become unconscious and was taken to Hospital by the police. He remained admitted in the hospital for about 25 days. Consequently, claimant-respondent No.3 filed a claim petition before the Tribunal.

Upon notice, respondent No.1-driver failed to appear before the Tribunal despite service, therefore, he was proceeded against exparte. Respondent No.2 (owner of the offending car) filed his written statement, wherein it has been stated that no such accident had taken place and a story had been concocted by the claimant just to get the compensation.

Insurance Company (appellant herein) filed a separate written statement stating that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident. All the allegations levelled by the claimant were denied and a prayer for dismissal of the claim petition was made.

From the pleadings of the parties, following issues were framed:-

1. Whether claimant sustained injuries in a road accident which took place on 23.02.2008 in the area of Chandigarh, due to rash and negligent driving of Car No. HR-68-T-4430 by its driver respondent No.1? OPP
2. Whether the claimant is entitled to any compensation, if so, how much and from whom? OPP
3. Whether the driver of the offending car was not holding a

valid driving license at the time of accident, if so, its effect?

OPR-3

4. Relief.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of offending car Amritpal Singh-driver and thus, returned finding on issue No.1 in favour of the claimant. This finding was rightly given on the basis of deposition of claimant-Gaurav Gaba (CW-1), coupled with the fact that FIR, Ex.C1, was registered with the regard to the accident caused by the offending car. Further, the claimant had proved on record copy of judgment, Ex.C3, vide which, respondent No.1 was convicted by the Court of Shri Sudhir Parmar, HCS, Judicial Magistrate Ist Class, Chandigarh, for committing the offences punishable under Section 279, 337 and 338 IPC.

In the aforesaid accident, claimant-respondent No.3 had suffered multiple injuries on his body. His left leg and arm were got fractured and he was taken to the Government Hospital, Sector 16, Chandigarh. Treatment card, in this regard, have been proved as Ex.C4 to Ex.C6. As per disability certificate, Ex.C31, the claimant has suffered disability to the extent of 4%. The left leg of the claimant was shortened by half inch. Accordingly Rs.25,000/- were awarded in favour of the claimant on account of disability suffered by him. Rs.23,565/- were awarded on account of medical expenses as per Bills Ex.C6 to Ex.C30. Apart from this, Rs.12,000/- were awarded on account of loss of income, Rs.10,000/- for pain and sufferings, Rs.5000/- for transportation charges, Rs.2000/- for special diet and Rs.2000/- for attendant charges. Ultimately, the claim

petition was accepted and the claimant was found entitled to a total compensation of Rs.79,565/-. Feeling dissatisfied with the impugned award, the appellant-Insurance Company has preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the claimant has received injuries as a result of the accident. The main ground for challenging the impugned Award is that the driver (respondent No.1) was driving the offending vehicle as taxi and his driving licence has not been verified.

Learned counsel for the appellant has placed on record the verification report given by the District Transport Officer, Patiala, according to which, driving licence was given to Amrit Pal Singh son of Sh. Nirmaljit Singh, vide Driving Licence No.66875/C/04 and it was valid for driving motorcycle and motorcar w.e.f. 19.11.2004 to 18.01.2014. Accordingly, as per this report, the driver was having a valid and effective driving licence and the question, whether the vehicle was being used as taxi, would not make the said driving licence as invalid. Hence, the Insurance Company was rightly held liable to pay the compensation and the argument raised by learned counsel for the appellant is rejected.

Resultantly, finding no merits, the present appeal filed by the Insurance Company is dismissed.

(RITU BAHRI)
JUDGE

29.08.2017
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No