

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 388 of 2013 (O&M)

Date of Decision: 13.12.2017.

Bhupinder Singh

.....Appellant

Versus

Riyaj Khan alias Riyaj Ali and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Saurabh Kapoor, Advocate and
Mr. Ashit Malik, Advocate
for the appellant.

Mr. Subhash Goyal, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 3.4.2012 passed by the Motor Accidents Claims Tribunal, Kurukshetra (for short 'the Tribunal').

This litigation is a result of an accident involving the tractor-trolley bearing registration No.HR-07B-7579. The said tractor met with an accident with a truck bearing registration No.HR-38-C-0326, as a result of which, the tractor-trolley was damaged.

The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The said claim petition was dismissed on the ground that the claimant was not able to prove that he was the owner of the tractor. Further the Tribunal was not satisfied with the genuineness of bills/invoice of purchase of tractor parts. Aggrieved of the award dated 3.4.2012, the present appeal has been filed.

During pendency of the appeal, the Insurance Company

verified the ownership of the tractor.

Learned counsel for the Insurance Company has placed on record the verification report. The report verifies that the tractor was owned by Bhupinder Singh-appellant.

Learned counsel for the Insurance Company is not disputing the issue of ownership. The only issue left to be adjudicated in the present appeal is the amount of compensation to be awarded to the appellant for damages to the tractor-trolley.

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

Learned counsel for the appellant has argued that the bills of purchase of tractor parts were Ex.P2 to Ex.P32. He contended that the said exhibits were proved by the deposition of PW3 Vikram Davar. He further relied upon the bills produced for labour charges of Rs. 15,300/- issued by Kulwant Singh, Mechanic. The said mechanic also deposed as PW2. His contention is that the appellant had spent almost two lakhs on repair of the tractor and the same should be compensated.

Learned counsel for the Insurance Company argued that the claimant failed to establish the expenses incurred on repair of the tractor. He further failed to establish that what was the value of the tractor at the time of accident and he defended the award.

A perusal of the record will show that Ex.P2 to P32 have been issued in the name of Mintu. It has not come on record that who this Mintu is. The owner of the tractor as proved now is Bhupinder Singh, who is appellant. The Tribunal has doubted even the genuineness of the bills but without going into that aspect, it would be sufficient to say that the

appellant has failed to establish the spare parts have been purchased by him. In any case, the labour charges and bills regarding repair have not been disputed. The appellant is thus entitled to a sum of Rs.15,300/-. The appellant would be entitled to said amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is accordingly partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

13.12.2017

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Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No