

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

FAO No.5331 of 2017 (O&M)

Date of Decision: 06.09.2017

United India Insurance Company Ltd.Appellant

Vs.

Sushil Kumar and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Harsh Aggarwal, Advocate, for the appellant.

RITU BAHRI, J. (ORAL)

CM No.16674-CII of 2017

For the reasons stated in the application, delay of 35 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the appellant/Insurance (for short 'the appellants'), against award dated 17.02.2017, passed by the learned Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal') vide which compensation to the tune of Rs.3,22,000/- was awarded to the claimant/Sushil Kumar on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 24.04.2013, at about 06.10 p.m., the appellant-Sushil and one another Vinod were going to their village from Panipat on motorcycle bearing registration No.HR-33C-6058. Sushil was driving the motorcycle and Vinod was pillion rider. At about 7:00 p.m., when they reached near

village Kawi, a canter bearing registration No.HR-67A-1389 being driven by its driver in a rash and negligent manner hit their motorcycle. Resultantly, both of them fell down and sustained injuries. Upon the statement of complainant/appellant Sushil, FIR No.133 dated 26.04 2013 under Section 279, 337 IPC was registered at P.S.Madlauda against respondent No.1.

The injured-Sushil claimed that he was posted as Lab Attendant in Government College, Safidon and was also an agriculturist earning Rs.30,000/- per month. After the accident, the injured was shifted to Dr.Prem Hospital, Panipat, where he remained admitted till 30.04.2013. His right leg was operated and rod was inserted. The claimant spent approximately Rs.2 Lacs on his treatment. The respondents are jointly and severally liable to compensate him. He prayed for a compensation of Rs.12 Lacs with interest @ 12% per annum on account of injuries sustained by him in the accident.

Upon notice, respondents No.1 and 2 filed their written statement controverting the claim of the claimants. Respondent No.3 filed its separate written statement and all the respondents prayed for dismissal of the claim petition filed by the claimant.

From the pleadings of the parties, the following issues were framed on 30.05.2014:-

1. *Whether Sushil Kumar s/o Kakhmi Chand and Vinod S/o Leelu Ram sustained injuries in a roadside accident on 24.04.2013 on account of rash and negligent driving of Center bearing No.HR-67A-1389 driven by respondent No.1, as alleged in the petition? OPP*
2. *If issue No.1 is proved, whether the petitioners are entitled to compensation, if so to what effect and from whom? OPP.*
3. *Whether respondent No.1 was not holding a valid and effective driving licence on the date of*

accident? OPR3.
4. Relief.

The learned Tribunal had given its finding on issue No.1 that accident took place on account of the rash and negligent driving of respondent No.1. As per documents i.e. copy of FIR Ex.P9, copy of report under Section 173 Cr.P.C i.e. Ex.P-7, copy of charge sheet Ex.P6 and other documents pertaining to medical treatment available on the case file were sufficient to establish that the claimants had met with an accident on 24.04.2013 as alleged in the petition and the accident took place due to rash and negligent driving of respondent No.1 by driving the offending vehicle bearing registration No.HR-67A-1389 owned by him and insured with respondent No.2. This finding has been rightly recorded by the learned Tribunal in view of the law laid down in the case of Girdhari Lal vs. Radhay Shyam, 1993(2) PLR 109 and Gurdeep Kaur vs. Tarsem Singh 2008(2) RCR (Civil) 774 with respect to the compensation.

A perusal of the Award further shows that compensation has been assessed keeping in view of the medical expenses and the receipts i.e. Ex.P-13 to Ex.P63 in the present case. His income has been taken Rs.30,000/- per month keeping in view the certificate copy of leave encashment record entered in the service book as Ex.PW6/A which shows that he was absent from his duty for 116 days on account of injuries sustained in the accident and he has suffered financial loss of Rs.1,16,000/- which has been Awarded by the learned Tribunal as loss of income.

The learned Tribunal has assessed the compensation on different heads as under

Sr.No.	Heads of compensation	Amount
1.	Medical Expenses	Rs.1,64,000/-

2.	Pain and sufferings	Rs.20,000/-
3.	Loss of income	Rs.1,16,000/-
4.	Permanent disability (6% Permanent disability)	Rs.12,000/-
5.	Special diet, attendant charges and transportation	Rs.10,000/-
	Assessed compensation	Rs.3,22,000/-

The above said compensation had rightly been assessed by learned Tribunal in view of the medical bills i.e. Ex.P13 to Ex.P69 and claimant Sushil had absented from duty for 116 days, as such, his loss of income has been rightly assessed by the learned Tribunal as Rs.1,16,000/- and on account of disability Rs.12,000/- has rightly been awarded as the disability of the claimant-Sushil Kumar has been assessed at 6% in permanent nature the other compensation on different heads had also been assessed as reasonable and not on the higher side, in any manner.

So in the light of the discussion, the orders of the learned Tribunal do not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

06.09.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No