

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5551 of 2017 (O&M)
Date of Decision: 06.09.2017

United India Insurance Company Ltd.

.....Appellant

Vs.

Vinod and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

RITU BAHRI, J. (ORAL)

CM No.18061-CII of 2017

For the reasons stated in the application, delay of 9 days in re-filing the appeal is condoned.

Application stands disposed of.

CM No.18062-CII of 2017

For the reasons stated in the application, delay of 46 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.1,67,000/- was awarded to the claimant/Vinod on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 24.04.2013, at about 06.10 p.m., the appellant-Vinod and one another Sushil were going to their village from Panipat on motorcycle bearing

appellant-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-Vinod claimed that he is an agriculturist and his earning is Rs.15,000 to Rs.16,000/- per month. After the accident, he was shifted to Dr.Prem Hospital, Panipat, where three units blood was transfused and after providing treatment, he was referred to PGIMS, Rohtak. An amount of Rs.50,000/- was spent by him in Prem Hospital, Panipat. The claimant remained admitted in PGIMS, Rohtak for 9 days where he was operated upon for the fractures and rods and iron plates were inserted. Thereafter, the claimant remained admitted in K.D.Sharma Hospital, Ambala Cantt. for more one a month. The petitioner had spent an amount of Rs.2 Lakhs approximately on his treatment. The respondents are jointly and severally liable to compensate him.

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-1 to Ex.P-5 in the present case. As such, Rs.1,19,600/- was awarded by the learned Tribunal on account of this head. The appellant had claimed that he was an agriculturist and also doing the dairy business and earning a sum of Rs.15-16,000/- but in the absence of any due proof, learned Tribunal has assessed his monthly income as Rs.4,000/- and further the learned Tribunal was of the view that at least for 2 ½ months on account of injuries sustained in the accident, the petitioner could not have performed his job for earning and thereby had suffered financial loss of Rs.8,000/- and a compensation of Rs.10,000/- was

awarded in favour of the appellant on account of financial loss.

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

Sr.No.	Heads of compensation	Amount
1.	Medical Expenses	Rs.1,27,000/-
2.	Pain and sufferings	Rs.20,000/-
3.	Loss of income	Rs.10,000/-
4.	Special diet, attendant charges and transportation	Rs.10,000/-
	Assessed compensation	Rs.1,67,000/-

The above said compensation had rightly been assessed by learned Tribunal in view of the medical bills i.e. Ex.P-1 to Ex.P-5 and claimant Vinod had absented from duty for 2 ½ months , as such, in the absence of any income proof, his loss of income has been assessed by the learned Tribunal as Rs.4,000/- per month and awarded Rs.10,000/- on this account and 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.

06.09.2017

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(RITU BAHRI)

JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No