

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

FAO No.587 of 1995 (O&M)
Date of decision: 31.07.2018

Paramjit Singh

... Appellant

Versus

Balwinder Singh and ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. A.S. Dhindsa, Advocate for
Mr. K.S. Chahal, Advocate
for the appellant.

Mr. R.M. Suri, Advocate
for United India Insurance Co. Ltd.

Mr. Suvir Dewan, Advocate
for New India Assurance Co. Ltd.

REKHA MITTAL, J. (Oral)

CM No.21480-CII of 2014

Heard.

For the reasons stated in the application, same is allowed and
order dated 20.08.2014 is recalled.

Main case is taken up on board today itself.

Main Case

The claimant is in appeal seeking enhancement of
compensation on account of injuries sustained in a motor vehicular accident
that took place on 29.11.1988.

The Tribunal has awarded compensation of Rs.60,000/-, detailed hereunder:-

- | | |
|---|-------------|
| 1. Expenses on medical treatment and transportation | Rs.40,000/- |
| 2. Pain and sufferings | Rs.10,000/- |
| 3. Compensation for future loss | Rs.10,000/- |

However, the claimant has been held entitled to 50% of the amount as 50% negligence has been attributed to the injured.

Counsel for the appellant would argue that the injured was a student and had boarded the ill-fated bus No.PAB-2182 for going to his school at Village Jodhpur from V. Gurusar Sainewala. It is argued that as the school students were not permitted to travel inside the bus, they were compelled to travel on the ladder or other fixtures on the back of the bus or on its roof top. It is argued that the negligence is attributable to the bus driver and driver of the truck involved in the accident, therefore, claimant is entitled to get compensation from the driver, owner and insurer of either of the vehicles who can be attributed composite negligence for the occurrence.

Another submission made by counsel is that compensation assessed by the Tribunal is on lower side and needs enhancement. In this regard, it is contended that the claimant was about 16 years old at the time of occurrence and he suffered fracture on his leg. Because of the injury, he has been rendered unfit to join service in Armed Forces.

Counsel representing the insurance company has supported the award attributing 50% negligence to the injured who was unauthorisedly travelling on the back of the bus No.PAB-2182. He has also supported

findings of the Tribunal with regard to assessment of compensation.

Indisputably, the injured victim was travelling unauthorisedly on the back of the bus bearing No.PAB-2182. There is nothing on record suggestive of the fact that the injured had purchased a ticket for travelling in the bus in question, therefore, he cannot put the blame upon driver of the bus even if he had refused to allow him to travel by sitting in the bus. As the injured had taken the risk of travelling unauthorisedly on the back side of the bus, he cannot escape his liability for the occurrence and the Tribunal has rightly attributed 50% negligence to the injured.

This brings the Court to quantum of compensation assessed by the Tribunal. The occurrence in question took place in 1988 and the award was passed in 1994. The injured has not suffered any disability on account of sustaining injuries. The Tribunal has still allowed a sum of Rs.10,000/- for future loss. As the injured has not suffered any disability, it is difficult to accept contention of the injured that he has been rendered unfit for joining Armed Forces or he is entitled to get compensation on this account. As has been rightly argued by counsel for the insurance company, there is no justification for enhancement of compensation.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

No order as to costs.

31.07.2018

ashok

Whether speaking/reasoned:

Whether reportable:

Yes / No

Yes / No

(REKHA MITTAL)
JUDGE