IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC No.19-CII of 2001 in/and
FAO No.1675 of 2001 (O&M)
Date of decision: 23.05.2018

New India Assurance Company Ltd. .... Appellant

Versus

Piara Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Neeraj Khanna, Advocate
for the appellant.

Mr.S.K.Arora, Advocate
for respondent No.1-cross-objector.

Mr. Kuldeep Sangwan, Advocate
for respondents No.2 and 3.

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Avneesh Jhingan, J.

The insurer of the offending truck bearing registration No.PB-13-B-5725 filed the appeal against the award dated 03.03.2001 passed by Motor Accidents Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal').

In the present case, the original record was partially burnt in the fire incident that occurred in January, 2011 and has been reconstructed from the salvaged record and copies supplied by counsels, subject to all just exceptions.

In a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') filed by Piara Singh, the Tribunal awarded a sum of Rs.1,25,000/- along with interest @ 9% per annum, on account of injuries suffered by him in a motor vehicular accident that took place on 15.05.1994. The claimant has filed the cross-objections for enhancement of compensation.

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The finding of the Tribunal was that the accident was caused due to rash and negligent driving of the offending vehicle and the same has not been challenged in the present appeal.

The issue raised by learned counsel for the insurer is that the original driving licnece issued was fake and its subsequent renewal does not make it valid.

At this stage, reliance is placed upon the decision of this Court in ***FAO No.1674 of 2001, titled as "New India Assurance Company Ltd. vs. Gurmeet Kaur and others, decided on 23.04.2018***. The said appeal was filed against the same award arising out of the same accident.

In the said appeal, the findings of the Tribunal on issue No.4 were reversed. It was ordered that the claimants would be entitled to compensation as awarded by the Tribunal/this Court from the insurer and on the payment of compensation, the insurer will have the right to recover the same from the owner of the offending vehicle. Since the said issue has already been decided in the same with regard to the same very accident, in the light of the decision of this Court, the appeal of the insurer is allowed in the same terms.

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Learned counsel for the cross-objector/claimant has argued that injured was 20 years of age at the time of the accident. He suffered 60% permanent disability qua the right leg. He argued that he was hospitalised and underwent treatment for a long time.

From the perusal of the award, it is evident that the Tribunal awarded a lump sum amount of Rs.1,25,000/- instead of applying the multiplier method. No useful purpose would be served at this stage by remanding the matter back to the Tribunal to prove the functional disability.

Having due regard to the decision of ***Raj Kumar vs. Ajay Kumar,***

2011 (1) SCC 343 on approximate calculation even by applying the multiplier method, the claimants would be entitled to an amount of Rs.1,30,000/- on account of compensation for permanent disability. Since the other pecuniary and non-pecuniary heads are to be compensated, it is deemed appropriate that the amount awarded by the Tribunal of Rs.1,25,000/- is enhanced by Rs.75,000/-.

The claimant is entitled to enhanced amount along with interest @ 6% from the date of filing the claim petition till the realisation of the amount.

The appeal and cross-objections are accordingly disposed of.

(AVNEESH JHINGAN)
JUDGE

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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No