

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

Date of decision : August 16, 2018

1. FAO No.1284 of 2002

Mam Raj & another vs Manohar Lal and others

2. FAO No.1285 of 2002

Mam Raj vs Manohar Lal and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vinod K Kanwal, Advocate
for Mr. Ashit Malik, Advocate
for the appellants.

Mr. Amit Jaiswal, Advocate
for respondent No.3-Insurance Company.

Ajay Tewari, J (Oral)

This order shall dispose of aforesaid both the appeals.

FAO No.1284 of 2002 has been filed against the Award dismissing the claim application for grant of compensation on account of damage to the tractor, while FAO No.1285 of 2002 has been filed for enhancement of compensation awarded by the Tribunal for the injuries suffered by the injured.

Brief facts are that on 28.9.1998, the injured-Mam Raj accompanied by Ram Kumar and Baru Ram, was going to his village Mattak Majri from Yamuna Nagar on the tractor trolley and when they reached near Vijay More Wan Wali Sarak, the offending truck being driven by respondent No.1 rashly and negligently came from behind and hit the

tractor trolley and a result of which, the tractor trolley turned turtle and struck into the trees. The injured-Mam Raj received injuries and the tractor trolley was also damaged. Two claim applications were filed; one for grant of compensation on account of receipt of injuries, and the second for grant of compensation for damage to the tractor. The Tribunal awarded a total sum of ₹ 70,000/- for the injuries sustained by the injured, and dismissed the claim application for grant of compensation on account of damage to the tractor.

FAO No.1284 of 2002

The Tribunal while dismissing the claim application for damage to the tractor held that apart from placing two bills on the record, the appellants had not proved the extent of damage.

Counsel for the appellants has argued that atleast those bills should have been considered. In this connection, the Tribunal noticed that neither the mechanic nor the owner of the shop from which purchase was made was produced in the Court. Counsel for the appellants states that it was admitted that there was damage to the tractor. That may be so but in my opinion, no fault can be found with the finding of the Tribunal that the extent of damage and costs incurred to repair the tractor have not been proved. Consequently, finding no merit, this appeal is dismissed.

FAO No.1285 of 2002

Counsel for the appellant has argued that the injured-appellant was admitted in different hospitals for total 43 days and a sum of ₹ 5,000/- awarded by the Tribunal towards expenses incurred, conveyance, attendant and special diet is highly inadequate.

I find this argument well merited and consequently award

₹15,000/- more under the aforesaid heads.

Counsel for the appellant has further argued that for pain and suffering, the Tribunal has awarded only a sum of ₹15,000/-. I find force in this argument also and consequently award ₹ 15,000/- more for pain and suffering.

Counsel for respondent No.3, however, points out that the interest rate of 9% is excessive in today's day and age. I find some merit in this argument and consequently direct that the appellant would be entitled to interest @ 7.1/2% pa on the enhanced amount from the date of claim application till the date of payment.

With this modification in the Award, this appeal stands disposed of.

Since the main cases have been decided, the pending C.Ms, if any, also stand disposed of.

August 16, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No