

FAO No. 1457 of 2012(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

310-R

Date of Decision: 12.07.2018

1. FAO No. 1457 of 2012(O&M)

V.K.Asthana

.

.....Appellant

versus

Raghbir

.....Respondent

2. FAO NO.2929 OF 2012 (O&M)

Raghbir

.....Appellant

versus

V.K.Asthana

.....Respondent

CORAM HON'BLE MR. JUSTICE AJAY TEWARI

Present

Mr.Vikram Punia, Advocate for the appellant
in FAO No. 1457-2012 and respondent in
FAO-2929-2012.

Mr. R.S.Malik, Advocate for the respondent
in FAO-1457-2012 and appellant in FAO-2929-2012.

AJAY TEWARI, J(ORAL)

CM-6038 and 41-CII-2012 in FAO-1457-2012

For the reasons recorded, the applications are allowed.
Deficiency in the court fee is made good. Delay of 24 days in filing the
appeal is condoned.

CM-12958-CII-2012 in FAO-2929-2012

For the reasons recorded, the application is allowed. Delay of
104 days in filing the appeal is condoned.

FAO No. 1457 of 2012 and FAO No. 2929-2012

These two appeals filed against the award dated 21.10.2011

passed by Motor Accident Claims Tribunal, Sonipat, are being decided by this common judgment and the parties shall be referred to as claimant and owner respectively.

Case of the claimant was that he was working as a Sweeper on Gulshan Dhaba, GT Road, Murthal (Sonipat) on monthly salary of ₹3,500/-. On 02.02.2009, he was standing on the kacha portion on the main GT Road outside his place of work after discharging his duty to take some transport to go to his village at around 08:00 PM when a car bearing No. DL-3C-9645 which was coming from Delhi side and was being driven rashly and negligently hit him as a result of which he suffered injuries which ultimately ended with amputation of the middle finger of the right hand.

The case of the owner, on the other hand, was that infact he had sold the vehicle to one Chhotu Mistry in the year 2001 but because the said Chhotu Mistry had died shortly thereafter, the registration could not be transferred. He denied for want of knowledge that the accident had taken place and further pleaded that in any case he was not liable to pay any compensation.

The Tribunal held that he had not been able to prove the sale and since he continued to be the registered owner, negated the claim that he was not liable to pay any compensation.

As regards the accident, the Tribunal believed the testimony of the claimant wherein he had stated that after the accident, the number of vehicle was given to him by a motorcyclist who had taken him to the hospital. The Tribunal accepted the income as claimed by the claimant and ordered compensation of ₹75,000/- i.e ₹25,000/- as per the medical bills, ₹30,000/- for pain and suffering and ₹8,750/- for loss of income for two

months and ₹11,250/- for loss of future income on account of permanent disability.

Both the parties have filed appeals.

The case of the owner is that the claimant was not able to prove that the accident took place with the vehicle. As per him, there are discrepancies in the statement of the claimant.

Learned counsel has taken me through the statement of the claimant and I find that apart from some small discrepancies which are easily explained on account of passage of time, the testimony as a whole reads consistently credible.

In the circumstances, I reject the prayer that the claimant has not been able to prove that the accident took place with the vehicle.

Coming to the appeal of the claimant, learned counsel has argued that the compensation is inadequate, since nothing has been paid for attendant and special diet. In my considered opinion, there is no requirement of a paid attendant for an amputated middle finger. Moreover, there is no functional disability which the claimant has suffered and on this score, he could have been awarded ₹10,000/- for the 5% permanent disability whereas he has been awarded ₹75,000/-. In the entire conspectus of fact, I am not persuaded that the compensation can be enhanced.

Both the appeals are dismissed.

A photocopy of the order be placed on the file of connected appeal numbered above.

12.07.2018
mamta

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No