

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

1. FAO No.3527 of 2012 (O&M)
Date of decision: 23.05.2018

Raj Kumar Appellant

Versus

Gurdeep Singh and others Respondents

2. FAO No.4942 of 2012 (O&M)

Seema Rani Appellant

Versus

Gurdeep Singh and others Respondents

3. FAO No.4042 of 2012 (O&M)

Jaspreet Singh Appellant

Versus

Seema Rani and others Respondents

4. FAO No.4041 of 2012 (O&M)

Jaspreet Singh Appellant

Versus

Raj Kumar and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Ravindra Jain, Advocate
for the appellant in FAO No.3527 & 4942 of 2012 and
for respondent No.1 in FAO No.4041 & 4042 of 2012.

Mr. Jagdish Manchanda, Advocate
for respondent No.2 in FAO Nos.3527 & 4942 of 2012 and
for the appellant in FAO No.4042 & 4041 of 2012.

Ms. Anamika Mehra, Advocate
for respondent No.3.

Avneesh Jhingan, J.

These are four appeals filed against award dated 16.03.2012 passed by Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal').

Seema Rani, wife of Raj Kumar and Raj Kumar son of Bhagat Ram claimants have filed two appeals for enhancement of compensation awarded to them in claim petitions filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') on account of injuries suffered in a motor vehicular accident.

The owner of truck bearing registration No.HR-31GA-0241 has filed two appeals being aggrieved that recovery rights have wrongly been granted to the insurer of the offending truck.

The brief facts necessary for adjudication of these appeals are that a motor vehicular accident took place on 26.11.2007. In the said accident, truck bearing registration No.HR-31GA-0241 was the offending vehicle. As a result of the accident, both Raj Kumar and Seema Rani sustained injuries.

In the two claim petitions filed by Raj Kumar and Seema Rani, the Tribunal after considering the facts and evidence adduced, awarded compensation of Rs.38,523/- to Raj Kumar and Rs.1,00,353/- to Seema Rani along with interest @ 7.5% per annum.

The Tribunal held that the licence produced by the driver of the offending vehicle was not validly issued and hence the insurer was given the recovery rights.

Learned counsel for the owner of the offending vehicle contended

that the licence was issued from Agra and the original record from Agra was not brought by RW1-Gian Singh Khair, Senior Clerk, RTO Office, Transport Nagar, Agra, as the said record was sealed in a case. In absence of the original record, it could not have been decided that the driving licence produced was not validly issued.

Learned counsel for the insurer contended that respondent would need an effective opportunity to rebut the evidence adduced by the owner.

Without expressing any opinion on the merits of the case, the issue regarding liability to pay compensation is remitted back to the Tribunal to be decided afresh after giving opportunity to the parties to adduce fresh evidence, if so desired.

Since the matter regarding liability to pay has already been remanded, in such circumstances, it would be appropriate that the issue of enhancement of compensation be also decided by the Tribunal after providing opportunity to the parties.

Parties are directed to appear before the Tribunal on 25.07.2018.

All the four appeals are disposed of in the abovesaid terms.

(AVNEESH JHINGAN)
JUDGE

23.05.2018
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1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No