

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

1. FAO No.10297 of 2014 (O&M)
Date of decision: 20.11.2018

National Insurance Company Appellant

Versus

Gurdev Singh and others Respondents

2. FAO No.3287 of 2015 (O&M)

Gurdev Singh Appellant

Versus

Gurdev Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Harjinder Singh, Advocate
for the appellant in FAO No.10297 of 2014 and
for respondent No.3 in FAO No.3287 of 2015.

Mr. Swarn Tiwana, Advocate
for respondents No.1 and 2.

Mr. Arvind Kashyap, Advocate
for respondent No.3 in FAO No.10297 of 2014 and
for the appellant in FAO No.3287 of 2015.

Avneesh Jhingan, J. (Oral)

These two appeal have been filed against award dated
26.08.2014 passed by Motor Accident Claims Tribunal, Fatehgarh Sahib
(hereinafter referred to as the 'Tribunal') by the insurer of truck bearing

registration No.PB-11-AJ-9963 (for brevity, 'the offending vehicle') and by the claimant.

Both the appeals arise from a common award, hence, these are being disposed of by a common order.

The facts of the case are taken from FAO No.10297 of 2014. On 29.09.2012, Gurdev Singh was driving truck bearing registration No.HR-37A-7727. When he reached near Gurudwara Sahib of village Raimal Majri, Tehsil Nabha, District Patiala, his truck was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Gurdev Singh sustained multiple injuries. He was taken to Rajindra Hospital, Patiala, from where, he was referred to PGI, Chandigarh. However, he was admitted to Dayanand Medical College, Ludhiana, where he remained admitted till 09.10.2012. DDR No.18 dated 17.10.2012 was registered at Police Station Bhadson.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act') was filed.

The Tribunal, after considering the facts and on appreciating the evidence produced, held that the accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹13,15,324/- along with interest @ 9% per annum.

I have heard learned counsel for the parties and perused the

paper-book and record.

Learned counsel for the insurer argued that the application for additional evidence was filed along with the appeal for placing on record the verification report of the Licencing Authority, Alwar, from where the original driving licence was issued. He stated that the said application was allowed by this Court. His contention is that the driving licence was fake at the time of accident, hence, the recovery rights should be granted to the insurer.

Learned counsel for the driver and owner of the offending vehicle contended that the licence was subsequently renewed. There is nothing on record to challenge the said renewal. He further argued that even the original driving licence was issued from Patiala and not from Alwar.

Keeping in view the fact that inspite of the verification report produced by the insurer, further evidence needs to be adduced to decide the issue of liability to pay compensation. The matter with regard to the liability to pay compensation is remanded back to the Tribunal. The Tribunal shall decide the said issue afresh in accordance with law after providing opportunity to the parties concerned to adduce evidence in support of their claim.

Learned counsel for the claimant contended that the amount awarded by the Tribunal is on the lower side. The claimant had suffered permanent disability of 85% qua limb but the Tribunal has not applied the

multiplier method.

Since the issue with regard to liability to pay the compensation has already been remitted back, the matter with regard to enhancement of compensation is also remanded to the Tribunal to decide the same afresh. The issue of enhancement shall be decided after affording opportunity to the parties concerned to adduce fresh evidence, if so desired.

It is, however, clarified that the remand with regard to the enhancement of compensation shall not affect the amount already awarded by the Tribunal.

The parties are directed to appear before the Tribunal on 20.12.2018.

Both the appeals are disposed of in the manner indicated above.

(AVNEESH JHINGAN)
JUDGE

20.11.2018
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1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : No