

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

**1. Date of decision: 02.04.2018
FAO No.5579 of 2014 (O&M)**

General Manager/Chief Manager, Rajasthan State Road Transport Corporation.

....Appellant

Versus

Vijay Kumar and others

....Respondents

2. FAO No.5580 of 2014 (O&M)

General Manager/Chief Manager, Rajasthan State Road Transport Corporation.

....Appellant

Versus

Vijay Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Monika Singh, Advocate,
for the appellant.

Mr. Ajit Sihag, Advocate,
for respondent No.1-claimant.

RITU BAHRI J. (Oral)

This judgment will dispose of FAO Nos.5579 & 5580 of 2014 together as both these appeals have arisen out of one accident and common award. For reference, facts are being taken from FAO No.5579 of 2014.

General Manager/Chief Manager, Rajasthan State Road Transport Corporation-appellant (owner of offending bus) has filed these

appeals against the award dated 20.03.2014 passed by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal'), whereby compensations of Rs.3,12,271/- (in claim petition No.289 of 2012) and Rs.2,58,717/- (in claim petition No.290 of 2012) have been awarded in favour of the claimant-Vijay Kumar (respondent No.1 herein) on account of injuries received by him in a motor vehicular accident which took place on 17.07.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.07.2011, at about 12:45 P.M., claimant-respondent No.1 Vijay along with his friend Ravinder Singh son of Rajbir Singh was going from Bhiwani to Khatu Shyamji for religious purpose in his Alto Maturi car bearing temporary No.HR-99-JCT-9058. When they reached near bus stand, Bijnor, in the meantime, a Rajasthan Roadways bus bearing registration No.RJ-18-PA-3492 being driven by Rajender Singh-respondent No.2 (respondent No.1 in claim petitions) in a rash and negligent manner, came from the opposite side and struck against the car, as a result of which, claimant-Vijay and his friend received simple, multiple and grievous injuries. They were taken to S.K. Hospital, Sikar. With regard to the accident, FIR No.240 dated 17.07.2011, under Sections 279/337 IPC was registered against Rajender Singh-driver at Police Station, Sadar Sikar. Consequently, claimant-respondent No.1 filed two separate claim petition before the Tribunal seeking compensation on account of the injuries received by him in the accident as well as damage caused to his car. Tribunal decided both the petitions together.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came

to a conclusion that the accident had been caused on account of rash and negligent driving of the offending bus by its driver-respondent No.2 (respondent No.1 in claim petition) and thus, returned the finding on issue No.1 in favour of the claimant. This finding was rightly given on the basis of deposition of claimant-injured Vijay (PW-1). Ultimately, both the claim petitions were accepted and the compensation was assessed as under:-

Compensation in claim petition No.289 of 2012/2013

1. Medical bills and treatment charges: Rs.1,46,271/-
2. 28% disability : Rs.56,000/-
3. Costs of transportation, special diet,
attendant and loss of income etc. : Rs.70,000/-
4. Pain and sufferings : Rs.40,000/-
- Total : Rs.3,12,271/-

Compensation in claim petition No.290 of 2012/2013

Rs.2,58,717/- (on account of damage to the car of claimant).

Feeling dissatisfied with the impugned award, the appellant-owner has preferred the present appeals.

I have heard learned counsel for the parties and perused the case file.

Sole ground taken by the appellant is that the finding on issue No.1 has not been rightly given by the Tribunal.

For reference, issue No.1 is reproduced as under:-

“(1) Whether the accident occurred on 17.07.2011, at about 12.45 P.M., in the area of village Bijnor, resulting into the injuries to the petitioner and causing damage to Alto Maruti car bearing Temporary No.HR-99-JCT-9058 and registration No. HR-16-K-2550, on account of rash and negligent driving of respondent No.1 while driving Bus bearing registration No. RJ-

18-PA-3492? OPP

The fact of accident is admitted and proved. It stands established that the claimant has received injuries as a result of the accident. The Tribunal has observed that copy of FIR Ex.P1, Medico-Legal report Ex.P2 along with other documents, established that the accident causing injuries to claimant-Vijay Singh and damaging his Alto car bearing temporary registration No. HR-99-JCT-9058 (now registration No.HR-16-K-2550) had taken place due to rash and negligent driving of bus bearing registration No.RJ-18-PA-3492. As per report under Section 173 Cr.P.C. Ex.P6, Rajender respondent No.1-driver (respondent No.2 herein) was facing trial for rash and negligent driving of the offending vehicle, causing injuries to claimant-Vijay and damaging his Alto car. Though driver (Rajender) of offending vehicle had appeared as RW-1 and tendered his affidavit as Ex.RW1/A denying the accident, but in his cross-examination, he had admitted that he was facing criminal trial regarding this accident in the Court of Judicial Magistrate at Jhunjhunu. Moreover, the FIR, in this case, was lodged promptly on the same day of the accident i.e. 17.07.2011. This evidence is corroborated by the medical evidence that the injured was taken to the hospital, where he remained admitted upto 25.07.2011. Further, the disability of the claimant has been proved by Dr. S.S. Dhankar (PW-5).

After going through the impugned award, this Court is of the opinion that finding on issue No.1 has been rightly given by the Tribunal on the basis of deposition of claimant-injured Vijay Kumar, who while appearing as PW-1, reiterated the entire allegations with regard to rash and negligent driving of offending bus by its driver. Moreover, a criminal case had also been registered against the driver. Rajender, driver of the offending bus, had

appeared as RW-1 and admitted that a criminal case had been registered against him. In view of the said fact, finding on issue No.1 is not required to be interfered.

As regards the quantum of compensation, the Tribunal has correctly assessed the income, disability of injured, loss of future income, pain and sufferings etc. by examining entire evidence in the right perspective. No illegality, much less perversity, has been found in the impugned award warranting interference by this Court.

Resultantly, finding no merits, both the appeal i.e. FAO Nos.5579 & 5580 of 2014 are dismissed.

(RITU BAHRI)
JUDGE

02.04.2018

ajp

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