

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

FAO No. 8616 of 2014 (O&M)

Date of decision : August 03, 2018

1. Jagdev Singh and anotherAppellants

Versus

Chamkour Singh and anotherRespondents

FAO No. 1562 of 2015 (O&M)

2. Chamkour SinghAppellant

Versus

Jagdev Singh and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Angraze Singh Dhindsa, Advocate
for the appellants (in FAO No. 8616 of 2014).

Mr. Ashish Gupta, Advocate
for the appellant (in FAO No. 1562 of 2015).

Mr. Lalit Garg, Advocate
for Oriental insurance company.

LISA GILL, J.

This order shall dispose of FAO No. 8616 of 2014 (Jagdev Singh and another Versus Chamkour Singh and another and FAO No. 1562 of 2015 (Chamkour Singh Versus Jagdev Singh and others), which arise out of the same award.

FAO No. 8616 of 2014 has been filed by the driver and owner of the offending vehicle challenging recovery rights given to the insurance company.

FAO No. 1562 of 2015 has been filed by the injured –
claimant seeking enhancement of compensation awarded to him vide award

dated 02.07.2014 passed by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') on account of injuries suffered by him.

Brief facts necessary for adjudication of the case are that the appellant Chamkour Singh was involved in a motor vehicle accident on 15.02.2013 at about 8.45 a.m. he was proceeding on foot on Gadapur-Ghanour road. When he reached Satkar palace, a bus bearing registration No. PB-11V-5442 driven by respondent No. 1 in rash and negligent manner hit the appellant. The appellant received serious injuries in the accident including fracture of the right thigh and other multiple injuries. The appellant was taken to Gian Sagar Medical College and Hospital, Banur and his right leg was operated upon on 15.02.2013. Plates were affixed and other treatment also given to him. The accident was caused due to driving of the offending vehicle bus bearing registration No. PB-11V-5442 by respondent No.1 in a rash and negligent manner. FIR No. 23 dated 17.02.2013 under Sections 279, 337, 338 IPC was registered at Police Station Shambu, District Patiala in respect to the accident.

Claim petition was resisted by the respondents. Following issues were framed by the learned Tribunal:-

1. Whether claimant received injuries in a motor vehicle accident on 15.02.2013 caused by respondent No. 1 while driving Bus No. PB-11V-5442 in a rash and negligent manner? OPP
2. Whether the claimant is entitled to compensation, if so its quantum and from whom? OPP.
3. Whether claim petition is false and frivolous and has been filed by the claimant in connivance with respondents No. 1 and 2? OPR-3
4. Whether driver of offending vehicle i.e. respondent No. 1

was not having valid and effective driving license at the time of alleged accident, if so, its effect? OPR

5. Relief.

Learned Tribunal on consideration of the facts and circumstances of the case decided issues No. 1 and 2 in favour of the claimant against the respondents. Issue No. 4 was decided against the respondent – insurance company. However, it was directed that the insurance company would have a right to recover the amount of compensation from respondents No. 1 and 2. Total compensation of ₹93,159/- was awarded to the appellant as detailed hereunder:-

Loss of income from 15.02.2013 to 06.03.2013	₹6000/- being skilled worker
Medical expenses	₹39,159/-
Attendant charges	₹3,000/-
Special Diet	₹10,000/-
Transportation	₹5,000/-
Pain and suffering	₹20,000/-
Loss of amenities	₹10,000/-
Total	₹93,159/-

Learned counsel for the owner and driver of the offending vehicle i.e. appellants in FAO No. 8616 of 2014 submits that liability has been wrongly imposed upon the appellants as the driver – appellant No. 1 had produced a valid driving licence (Ex.R2) before the learned Tribunal wherein he is authorised to drive a transport vehicle. Learned Tribunal decided issue No. 4 against insurance company but at the same time afforded the insurance company the right to recover the compensation amount without any basis.

Learned counsel for the respondent – insurance company had sought time to verify the genuineness of the driving licence. Mr. Garg, Advocate fairly submits that appellant – Jagdev Singh driver of the

offending vehicle held a valid driving licence which authorised him to drive the offending vehicle. Verification report dated 20.02.2014 placed on record today is taken on record subject to just exceptions.

In this view of the matter, FAO No. 8616 of 2014 is allowed. Direction of the learned Tribunal permitting the insurance company to recover the compensation awarded from the appellants in FAO-8618-2014 is set aside.

FAO No. 1562 of 2015

Learned counsel for the appellant vehemently argues that the claimant – appellant was working as a Granthi/Pathi. Having suffered a fracture of thigh, he could not attend to his work for a number of months. Meagre compensation has been afforded to the appellant, which should be enhanced.

Heard, learned counsel for the parties.

It is not in dispute that the appellant – claimant suffered injuries in the accident which took place on 15.02.2013. His right leg was operated upon. Plates were affixed and he remained on complete bed rest for two months. PW4 Dr. Ashish Gupta testified in this respect. Learned Tribunal has treated the petitioner as a skilled labourer earning ₹7924/- i.e. minimum wages prescribed by the State of Punjab at that time.

In this view of the matter, it is considered just and expedient to afford compensation of ₹15,000/- instead of ₹6,000/- on account of loss of income, ₹50,000/- instead of ₹20,000/- for pain and suffering and ₹20,000/- instead of ₹10,000/- for loss of amenities. Rest of the compensation awarded by the learned Tribunal is maintained. He is, thus, entitled to ₹1,48,159/-.

No other argument has been raised. The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellant/claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, FAO No. 1562 of 2015 is disposed of. FAO No. 8616 of 2014 is allowed

August 03, 2018
rts

(Lisa Gill)
Judge

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