

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

FAO No.3233 of 2017 (O&M)

Date of Decision: February 12, 2018

Panjab Roadways

...Appellant

Versus

Santokh Singh and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Ashok K.Singla, Sr.DAG, Punjab for the appellant.

HARINDER SINGH SIDHU, J.

Challenge in this appeal to the Award dated 3.11.2016 of Motor Accident Claims Tribunal, Hoshiarpur (for short 'the Tribunal), whereby, compensation of Rs.17,10,004/- along with interest has been awarded to claimant-respondent Santhok Singh on account of the injuries suffered by him in a motor vehicular accident.

In brief, the facts are that on 18.12.2013, Gurnam Singh, cousin of claimant Santokh Singh was waiting for bus at Bus Stand of village Shahu Da Pind for going to village Bhikhowal. In the meantime, the claimant, who was to go to Hoshiarpur also reached the bus stand in his Indigo car No.PB-23F-1627. Gurnam Singh also boarded the car and at about 9.00/9.15 am, he alighted at village Bhikowal. After dropping him, when the claimant moved the car just for 50-60 meters, a Punjab Roadways bus No.PB-07X-8219 driven by respondent No.2 Satvir Singh in a rash and negligent manner, came from Hoshiarpur side and hit against the car of the claimant by going on the wrong side. Gurnam Singh rushed towards the place of accident and with the aid of the present people dragged out the claimant by

breaking door/window of the car. He was taken to Civil Hospital, Hoshiarpur, from where he was taken to Daya Nand Medical College and Hospital, Ludhiana.

On the statement of Gurnam Singh, FIR No.103 dated 21.12.2013 under Sections 279, 337, 338 and 427 IPC was registered in Police Station Haryana, District Hoshiarpur against respondent Satvir Singh.

On a claim petition filed by the injured Santokh Singh, he was awarded compensation as under:-

<i>Medical expenses</i>	<i>= Rs.13,80,904/-</i>
<i>Pain and suffering</i>	<i>= Rs.1,00,000/-</i>
<i>Conveyance and special diet</i>	<i>= Rs.50,000/-</i>
<i>Permanent Disability (75%)</i>	<i>= Rs.1,50,000/-</i>
<i>Financial loss during treatment</i>	<i>= Rs.30,000/-</i>

Assailing the impugned award, learned counsel for the appellant – owner of the offending bus, has argued that the finding of the Tribunal on the issue of negligence is without basis and beyond the evidence on record. It is also argued that the compensation awarded is on the higher side.

So far as the issue of negligence is concerned, the claimant in order to prove the rash and negligent driving of the offending bus by its driver Satvir Singh, examined Gurnam Singh as AW1 and himself as AW2. Both these witnesses asserted that after dropping Gurnam Singh at village Bhikhowal, when the claimant drove his car for just 50-60 meters, the offending bus driven by respondent No.2 in a rash and negligent manner, came from Hoshiarpur side and hit the car by going on the wrong side. Further, FIR No.103 dated 21.12.2013 under Sections 279, 337, 338 and 427 IPC was also registered in Police Station Haryana, District Hoshiarpur against respondent No.2, the driver of the offending bus. Further,

respondent No.2, in his cross-examination admitted that he is facing criminal trial for causing the accident and that he never moved any application to the higher police authorities regarding his false implication in the case. It has also come in evidence that the offending bus was taken into possession by the police from the accident site.

The Ld. Tribunal has also rightly held that the testimony of RW 2 Jagjit Singh, Inspector Punjab Roadways, Hoshiarpur cannot be relied upon to disprove the accident. No doubt he was appointed by the department to enquire regarding the accident and he had stated in his report that the accident did not take place. But he admitted in his cross examination that he had reached the place of accident at about 10.15 AM but did not record the statement of any person present at the spot or of the driver Satvir Singh nor did he click photographs.

It is well-settled that requirement of proof in a MACT case is not as stringent as in a criminal case.

In view of the above the finding of the Tribunal that the accident was caused due to rash and negligent driving of the offending bus is affirmed.

The Claimant while appearing as AW2, deposed that he was working as a photographer and on the day of accident i.e. 18.12.2013, he also being the Sarpanch of the village, was going to Hoshiarpur to meet some one in connection with some work. After the accident, he was taken to Civil Hospital, Hoshiarpur, where first-aid was given and then he was referred to D.M.C. & Hospital, Ludhiana. He remained admitted there till 31.01.2014 in different departments of D.M.C. & Hospital and D.M.C. Hero

Heart Hospital, Ludhiana. He further disclosed that he suffered multiple bone injuries and even after the treatment, was rendered disabled to the extent of 80%. It was also deposed that at the time of accident, he was running his own studio under the name and style of 'Ajay Studio' on Talab Road at Dasuya, District Hosiarpur and was earning about Rs.50,000/- per month, but due to accidental injuries, he lost the source of income and became dependant on others. He also produced on record. Ex.A4 to Ex.A12 prescription slips, Ex.A13 to A61 hospital bills/receipts, Ex.A62 to Ex.A17 medical bills, Ex.A189 and A190 photocopies of income tax returns, besides his PAN card, Disability Certificates, Discharge certificate and other medical bills.

The Tribunal noticed from the medical record that the claimant had a closed fracture of radius and mid third right side and segmental fracture ulna right side, closed fracture of posterior and superior wall of acetabulum right side. He was treated as a case of closed reduction and internal fixation of fracture humerus right side with UHN (IPXID) with closed reduction and application of above elbow slab left side, ORIF of fracture of radius right side and fracture ulna right side with nail, ORIF of fracture of acetabulum right side, de-bridgement and irrigation with suturing of wound over right thigh, mechanical ventilator, tracheostomy and mini tracheostomy.

To prove the disability, Dr.Manmohan Singh, Medical Officer in Civil Hospital, Dasuya appeared as AW3 and proved the disability certificate Ex.A188, having been signed by him, as also by Dr.S.P.Singh and Dr.Ranjit Singh. He further testified that he was also Member of the Board

of Doctors, which re-examined the claimant and re-assessed his permanent disability to the extent of 75%. He also proved the disability certificate Ex.A194 issued to the claimant.

The medical bills (Ex.A12 to A187, A193, A196 to A211) placed on record by the claimant showed that he had spent a sum of Rs.13,80,904/- for making payment of the hospital dues, purchase of medicines and to undergo various medical tests, as prescribed by the doctor.

It was on this evidence that the Tribunal assessed the compensation, as tabulated above.

Considering the injuries suffered by the claimant, his admission for about 1½ months in the hospital as also the follow up treatment, the disability suffered by him, pain and sufferings undergone as well as the financial loss caused to him, he being a photographer which avocation required a lot of physical mobility, the compensation awarded by the Tribunal, in no manner, can be said to be on higher side. Thus, the second argument of learned counsel that the compensation is excessive also cannot sustain.

Hence, the appeal is dismissed.

It is clarified that in this appeal only the argument of the Ld. Counsel for the appellant-insurer that the compensation is excessive has been rejected. Hence, nothing said in this appeal would have any bearing on the appeal for enhancement of compensation, if any filed by the claimant.

February 12, 2018

(HARINDER SINGH SIDHU)

JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No

