

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 23.01.2019

1. FAO No.2455 of 2000

Harbans Kaur

.... Appellant

Versus

Pawan Kumar and others

.... Respondents

2. FAO No.2456 of 2000

Kashmir Singh

.... Appellant

Versus

Pawan Kumar and others

.... Respondents

3. FAO No.2470 of 2001

Lakhwinder Kaur

.... Appellant

Versus

Pawan Kumar and others

.... Respondents

4. FAO No.2471 of 2001

Jarnail Singh

.... Appellant

Versus

Pawan Kumar and others

.... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Jagdish Manchanda, Advocate for the appellant(s).
 Mr. R.K. Singla, AAG, Haryana.

B.S. WALIA, J. (ORAL)

[1] FAO Nos.2455, 2456, 2470 and 2471 of 2000 have been filed by the claimant(s) praying for setting aside of dismissal of the claim petition and award of compensation on account of injuries sustained by them in a motor vehicular accident on 10.03.1997 while travelling in bus No.HR-37/1954.

[2] Brief facts of the case leading to the filing of the aforementioned appeals are that the claimant(s) boarded the aforementioned bus from Pehowa enroute to Patiala on 10.03.1997 at 8.30 a.m. When the bus reached ahead of Markanda bridge, its 'kamani patta' broke as a result of which it went out of control and struck against a 'kikkar' tree and thereafter, turned turtle.

[3] Learned Motor Accident Claims Tribunal. Kurukshetra (hereinafter referred to as 'the Tribunal') passed award dated 10.11.1999 dismissing the claim petition on the ground that the accident had not taken place on account of negligence of the driver of the bus in question but on account of sudden breakage of 'kamani patta' of the offending bus as a result of which it hit into a 'kikkar' tree and turned turtle. The learned Tribunal held that the appellant(s)/claimant(s) had failed to prove rash and negligent driving on the part of the driver of the bus in question.

[4] Learned counsel for the appellant(s)/claimant(s) contended that FAO No.2473 of 2001 - Jas Kaur v. Pawan Kumar and others was an appeal against same award dated 10.11.1999 filed by one of the co-injured in the same accident as in the instant case and that said appeal was compromised amongst the parties and a sum of ₹ 25,000/- paid in settlement of the claim

“Daily Lok Adalat” Bench No.2.
505 *FAO No.2473 of 2001*
Jas Kaur Vs. Pawan Kumar and ors.
(Appeal against the Award dated 10.11.99 passed by Shri
B.L.Singal, Motor Accident Claims Tribunal,
Kurukshetra, in Claim Petition No.152 of 1998/97).

* * * *

*Present: Mr.Jagdish Manchanda, Advocate for the
appellant.
Mr.Bijender Kumar, Superintendent, O/o
Haryana Roadways, Kurukshetra.
Mr.Anil Chahal, DAG, Haryana.*

* * * * *

Today, Mr. Bijender Kumar, Superintendent in the Office of Haryana Roadways, Kurukshetra, has appeared and produced authority letter issued by General Manager, Haryana Roadways, Kurukshetra, which is placed on record.

As agreed, as per statements of learned counsel for the appellant and Mr. Bijender Kumar, Superintendent in the Office of Haryana Roadways, Kurukshetra, separately recorded, a sum of ₹25,000/- (₹ Twenty Five Thousand Only) over and above the amount

awarded by the Tribunal is allowed to the appellant in full and final settlement of the claim. Two months' time is allowed to the Haryana Roadways to deposit the amount before the MACT, failing which, interest at the rate of 9% per annum shall follow on this amount till payment from the date of this order. The enhanced amount would be paid to the appellant – Jas Kaur, by the Haryana Roadways/Motor Accident Claims Tribunal. The appellant may furnish bank account particulars with IFS Code to the Haryanas Roadways/MACT.

The appeal is disposed of accordingly.

Copy of the order be supplied/sent to the counsel/parties and file be returned to the High Court.

(A.L.Bahri)
President

07.07.2015

(Kiran Anand Lall) ”

[6] Learned counsel for the appellants contended that in the circumstances, the appellants could not be discriminated and were entitled to be treated alike by award of similar compensation as had been agreed to be paid by the respondents to the appellant/claimant in FAO No. 2473 of 2001 though with interest with effect from the date of claim petition till date of payment.

[7] Learned counsel for the respondent-State on the other hand vehemently opposed the claim for interest and contended that at best the appellant(s)/claimant(s) were entitled to award of interest with effect from the date of order passed by the Daily Lok Adalat on 07.07.2015 in FAO No.2473 of 2001.

Learned counsel for the respondent-State has not been able to show that the appellants are situated differently than the appellant in FAO No.2473 of 2001.

[8] Having considered the submissions of learned counsel for the parties, I am of the considered view that once the accident in respect of which claim has been made by the appellant(s)/claimant(s) herein as well as was made by the claimant in FAO No.2473 of 2001 was the same, claimants and respondents in both cases were similarly situated and the Haryana Roadways had agreed to compromise the matter with the appellant/claimant in FAO No.2473 of 2001 by way of grant of ₹ 25,000/-, the appellant(s)/claimant(s) herein are also entitled to similar amount being paid to them. Resultantly, the appellant(s)/claimant(s) in FAO Nos.2455, 2456 of 2000 and FAO Nos. 2470 and 2471 of 2001 are held entitled to award of ₹ 25,000/- each along with interest @ 9% per annum with effect from 07.07.2015 i.e. date of order by the learned Daily Lok Adalat in FAO No.2473 of 2001 till realisation.

[10] Accordingly, award dated 10.11.1999 passed by the learned Tribunal is set aside and appeals (i.e. FAO Nos.2455, 2456 of 2000 and FAO Nos.2470 and 2471 of 2001) are allowed as above.

(B.S. WALIA)
JUDGE

23.01.2019
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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |