

**FAO No. 2712 of 2013 and  
FAO No. 5497 of 2013 (O&M)**

**- 1-**

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

**FAO No. 2712 of 2013 (O&M) and  
XOBJC-188-CII of 2014  
DECIDED ON: FEBRUARY 13, 2019**

**ARANDEEP SINGH @ ARMANDEEP SINGH**

**.....APPELLANT**

**VERSUS**

**GURMAIL SINGH AND OTHERS**

**.....RESPONDENTS**

**AND**

**FAO No. 5497 of 2013 (O&M)**

**GURMAIL SINGH AND ANOTHER**

**.....APPELLANTS**

**VERSUS**

**ARANDEP SINGH @ ARMANDEEP SINGH AND ANOTHER**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.**

**Present: Mr. J.K. Singla, Advocate  
for the appellant in FAO No. 2712 of 2013 and  
for respondent No.1 in FAO No. 5497 of 2013**

**Mr. Anil Kumar Sephia, Advocate for  
Mr. J.S. Chatrath, Advocate  
for the appellants in FAO No. 5497 of 2013 and  
for respondents No.1 and 2 in FAO No. 2712 of 2013.**

Mr. Paul S. Saini, Advocate  
for respondent No.3/Cross Objector in FAO No. 2712 of 2013 and  
for respondent No.2 in FAO No. 5497 of 2013.

**AVNEESH JHINGAN, J (ORAL)**

The aforesaid two appeals and cross-objections are being disposed of by a common order as they are arising out of the same accident and same award.

The award dated 01.06.2012 passed by the Motor Accident Claims Tribunal, Mansa (for short 'the Tribunal') has been assailed by filing two appeals and cross objections. The appeal bearing FAO No. 2712 of 2013 has been filed by the claimant. In the appeal filed by claimant the insurer of truck bearing registration No. PB-31-E-8667 (hereinafter referred to as the 'offending vehicle') has filed cross-objections. The appeal bearing FAO No. 5497 of 2013 has been filed by the driver and owner of the offending vehicle.

The issue raised in the appeal filed by the claimant i.e. FAO No. 2712 of 2013 and Cross Objections filed by the insurer (i.e. National Insurance Co. Ltd.) is with regard to quantum of compensation.

The issue raised in the appeal filed by the driver and owner of the offending vehicle i.e. FAO No. 5497 of 2013 is with regard to the liability to pay the amount of compensation.

The facts emanating from the record are that a motor vehicular accident took place on 04.03.2011. Arandeep Singh @ Armandeep Singh aged 5 years sustained multiple injuries in the said accident. The accident was caused due to rash and negligent driving of the offending vehicle. FIR No. 14, dated 07.03.2011 was registered at Police Station Joga.

In the claim petition filed under Section 166 of the Motor Vehicles

Act, 1988 (for short 'the Act'), the Tribunal considering the fact that there is a physical disability to the extent of 70% qua limb, a sum of ₹13,59,000/- alongwith interest @7.5% was awarded to the claimant. The insurer of the offending vehicle was held liable to pay the compensation but recovery rights were granted to the insurance company to recover the amount from the driver and owner of the offending vehicle. The recovery rights were given on the ground that driving licence produced by the driver of the offending vehicle was valid upto 26.07.2010 and was not valid at the time of accident.

**FAO No. 5497 of 2013**

The grievance raised in the present appeal is that in spite of the fact that the driving licence was valid on the date of accident as it was renewed w.e.f. 17.08.2010 to 26.07.2013, the recovery rights were granted to the insurer. Learned counsel for the appellants relies upon the order dated 26.08.2013 passed by the Tribunal dismissing the review on the ground of limitation. The relevant extract is reproduced as under:

*“So, it is proved that vehicle PB-31-E-8667 is light motor vehicle. Respondent No.1-Gurmail Singh is proved to be having valid driving licence at the time of accident. My learned Predecessor failed to take notice of the fact that as per endorsement on the driving licence of Gurmail Singh, copy of which is Ex.R2, the same was renewed with effect from 17.08.2010 to 26.07.2013.”*

To buttress his argument he further relies upon the verification report Annexure A-2 issued by the District Transport Officer, Mansa wherein it has been mentioned that the driving licence bearing No. 356/38408 dated 27.07.2001 issued by the District Transport Officer, Mansa was renewed on

17.08.2010 and was valid upto 26.07.2013.

Learned counsel for the insurer was not able to dispute the verification report and the fact that the Tribunal while passing the award overlooked the endorsement dated 17.08.2010.

Considering the verification report and the driving licence produced on record, copy of which is annexed with the appeal, it is evident that the driver of the offending vehicle was holding a valid licence on the date of accident.

In view of above, the recovery rights granted to the insurer of the offending vehicle cannot be sustained. The award dated 01.06.2012 is modified to the extent that driver, owner and insurer of the offending vehicle shall be jointly and severally liable to pay the compensation amount.

**FAO No. 2712 of 2013 and XOBJC-188-CII of 2014**

This is an appeal seeking enhancement of compensation. The cross-objections have also been filed by the insurer of the offending vehicle being aggrieved of quantum of compensation.

Learned counsel for the appellant contends that the amount awarded by the Tribunal is on the lower side as Arandeep Singh @ Armandeep Singh sustained physical disability to the extent of 70% qua limb.

During the pendency of appeal, an application was moved for adducing additional evidence to place on record the medical bills for the period after passing of the award. Further, learned counsel for the appellant contends that the treatment is continuing till date.

Learned counsel for the insurer/cross-objector contends that the said documents have been produced for the first time in the appeal, the same need to

be verified. He further contends that the Tribunal while awarding compensation has considered certain payment twice.

For awarding just and equitable compensation certain factual aspects are required to be proved by adducing further evidence.

Without expressing any opinion on the merits of the case, the matter with regard to quantum of compensation only is remitted back to the Tribunal to decide afresh in accordance with law, after affording an opportunity to the claimant and the insurer of the offending vehicle to adduce evidence in support of their claims.

Both the appeals and cross-objections are disposed of, in the afore-said terms.

Parties are directed to appear before the Tribunal on 19.03.2019.

FEBRUARY 13, 2019  
sham

(AVNEESH JHINGAN)  
JUDGE

*Whether speaking/reasoned* Yes  
*Whether reportable* No