

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 101

Case No. : FAO No. 6514 of 2015 (O&M)

Date of Decision : January 31, 2019

Surjit Singh		Appellant
vs.		
Bachitter Singh		Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Keshav Pratap Singh, Advocate
for the appellant.

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DEEPAK SIBAL, J. (Oral) :

The respondent filed a petition before the Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (for short – the Tribunal), in which, the case set up by him was that on 26.09.2013, he along with his wife Rajinder Kaur, were going in his car from Jalandhar to Mohali. At about 06:00 PM, when they reached near Truck Union Rail Majra, Kathgarh on Nawanshahar-Mohali road, a Car bearing registration no. PB-03-U-6570 (for short – the offending vehicle), being driven in a rash and negligent manner, struck his car, as a result of which his car struck another car bearing registration no. HR-24-N-2648. Both the respondent and his wife sustained multiple injuries in the accident. Rajinder Kaur was taken to Fortis Hospital, Mohali, where she succumbed to her injuries and the car of the respondent was also damaged beyond repairs. Rs. 80,00,000/- was claimed

by the respondent as compensation from the appellant, who is the owner and driver of the offending vehicle. No claim was made against any Insurance Company as the offending vehicle was admittedly not insured.

After concluding that the offending vehicle was being driven by the appellant in a rash and negligent manner which caused the accident in question, the Tribunal assessed the payable compensation on account of death of Rajinder Kaur as also the damage caused to the respondent's vehicle and directed such compensation to be paid by the appellant.

Learned counsel for the appellant submitted that no compensation could have been awarded by the Tribunal on account of damage to the respondent's car as no such claim has been made in the claim petition. It was further submitted that as per statements given by Ranjit Kumar and Balwinder Singh (Mark-A and Mark-B respectively) in the criminal proceedings launched by the respondent qua the accident in question, it was proved that the respondent was also negligent and partly responsible for causing the accident in question. Thus, the compensation awarded to be paid by the appellant on account of death of Rajinder Kaur should be proportionately reduced.

A perusal of the claim petition filed by the respondent reveals that the fact, that the respondent's vehicle had been extensively damaged in the accident, was clearly pleaded and thereafter, the respondent had claimed an amount of Rs. 80,00,000/- as compensation. Further, the record reveals that the respondent had filed a specific application to lead additional evidence in the form of bills for the expenses incurred by him for repair of

his car. The appellant had filed a reply to such application seeking dismissal of such application. Through order dated 17.03.2015, the Tribunal allowed the respondent to lead such evidence, as a result of which, the respondent proved the extent of loss caused to his vehicle through the accident in question. Order dated 17.03.2015 was never challenged by the appellant.

A perusal of the reply filed by the appellant, to the aforesaid application filed by the respondent for leading additional evidence, also reveals that not even an objection had been taken by the appellant therein that the additional evidence sought to be produced by the respondent was beyond the prayer made by him. Thus, the appellant passively permitted such evidence to come on record.

Even otherwise, once it had been proved that the respondent had incurred expenses towards repair of his car which had been damaged due to the rash and negligent driving of the offending vehicle by the appellant, this Court is of the view that the award of such expenses to be paid by the appellant does not warrant any interference especially when no challenge has been made before this Court to the finding of the Tribunal with regard to rash and negligent driving of the offending vehicle by the appellant.

The appellant's reliance on the statements of Ranjit Kumar and Balwinder Singh (Mark-A and Mark-B respectively) is misplaced as neither Ranjit Kumar nor Balwinder Singh were produced as a witness before the Tribunal and thus, they could not be subjected to any cross-examination at

the hands of the respondent. Their testimony, thus, does not have any evidentiary value.

In view of the above discussion, no merit is found in the present appeal.

Dismissed.

(DEEPAK SIBAL)
JUDGE

January 31, 2019
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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>