208(2)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.9767 of 2014 (O&M)
Date of Decision: 27.02.2019

HDFC ERGO General Insurance Co. Ltd.

Appellants

Versus

Banay Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Vandanaa Malhotra, Advocate
for the appellant.

None for respondents.

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AVNEESH JHINGAN, J (Oral):

The award dated 19.08.2014 passed by the Motor Accident Claims Tribunal, Palwal [for brevity 'the Tribunal'] has been assailed by the insurer of three-wheeler bearing registration No. HR-73-1477 [hereinafter referred to as 'offending vehicle'] being aggrieved of quantum as well as liability to pay the compensation.

Brief facts of the case are that on 13.01.2012, Banay Singh alongwith some other persons was travelling in the offending vehicle. The offending vehicle was being driven in a rash and negligent manner. Inspite of various requests of the occupants of the offending vehicle to drive the offending vehicle carefully, the driver of the offending vehicle did not pay any heed to their requests. When they reached near Indian Gas Agency, NH-II, Hodal, a pig came on the road and respondent No.1 lost his control over the offending vehicle.

The offending vehicle turned turtle. As a result, the occupants sustained injuries. Banay Singh, aged 14 years, sustained injuries and admitted in Kishan Singh Hospital, Hodal and then to Safdarjung Hospital, Delhi. He remained admitted for 25 days.

A claim petition was filed under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The insurer was held liable to pay the compensation but was granted recovery rights on the ground that the driver was not holding a valid Driving License at the time of accident.

The Tribunal awarded lump sum compensation of ₹1,00,000/- alongwith interest @ 7% per annum.

Learned counsel for the insurer argues that the accident was not caused due to rash and negligent driving of the offending vehicle, but it was caused due to a pig which came in front of the offending vehicle, hence insurance company is not liable to pay the compensation and the liability would be of driver and owner of the offending vehicle. The grievance raised is that compensation awarded is on higher side.

The contentions raised by learned counsel for the appellant lack merit. It has not been disputed that the offending vehicle was being driven at a high speed in a rash and negligent manner. It was result of the high speed that when pig came on the road and driver lost his control. No shadow can be cast upon the findings recorded by Tribunal.

No interference is called for in the quantum of compensation as the appellant was 14 years old and sustained grievous injuries. He remained hospitalized for 25 days and incurred medical expenses of ₹56,384/- which itself is an indicator of the nature of the injuries sustained by him.

In case of non-fatal injuries, not only pecuniary but non-pecuniary damages have to be compensated. Apart from the medical bills, an amount of ₹43,000/- odd has been awarded to compensate various heads and same calls for no interference.

The appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

February 27, 2019
pankaj baweja

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