

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

Date of decision: 03.03.2020

FAO No.2787 of 2013 (O&M)

Gurmukh Singh (deceased) thr LRs ... Appellant

Versus

Surinder Singh @ Soni and anr. ... Respondents

FAO No.5478 of 2013 (O&M)

Surinder Singh @ Soni ... Appellant

Versus

Jaswinder Singh and anr. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sukhdeep Singh, Advocate for
Mr. ADS Sukhija, Advocate for LR's of owner.

Mr. SS Sidhu, Advocate for the claimant.

REKHA MITTAL, J. (Oral)

CM No.12654-CII of 2013 in FAO No.2787 of 2013

Heard.

Allowed as prayed for. Delay of 25 days in filing the appeal
stands condoned.

Main Cases

This order will dispose of FAO Nos.2787 and 5478 of 2013 as
these have emerged out of the same award dated 24.01.2013 passed by the

Motor Accidents Claims Tribunal, Rupnagar whereby compensation has been assessed in respect of injuries sustained by Surinder Singh @ Soni, in a motor vehicular accident that took place on 08.10.2011.

FAO No.2787 of 2013 has been filed by Gurmukh Singh (since deceased), owner of offending vehicle to assail the award whereas the other appeal has been filed by the claimant seeking additional compensation.

The parties shall be referred to as the 'appellant' and 'claimant', for the sake of convenience.

Counsel for the appellant would argue that accident took place on 08.10.2011 but FIR was lodged at the instance of Satpal Singh, pillion rider of motorcycle bearing No.PB-65-K-5946 driven by Surinder Singh @ Soni (claimant herein), on 11.10.2011. It is further argued that Satpal Singh admitted in cross examination that father of Surinder Singh @ Soni is a police official and as such, possibility of lodging a false FIR cannot be ruled out. In addition, it is argued that Satpal Singh has admitted that lights of vehicles coming from both the sides were there and for the reason, he could not see face of driver of offending vehicle. He also admitted that accident was a head on collision between the motorcycle driven by the claimant and alleged offending vehicle, therefore, contributory negligence is liable to be attributed to the injured/claimant even if findings of the Tribunal are affirmed that accident took place because of collision between the offending vehicle and motorcycle driven by the claimant. The last submission made by counsel is that claimant failed to adduce cogent

evidence to establish his plea that accident is the result of rash and negligent driving of offending vehicle by Jaswinder Singh.

To assail quantum of compensation, it is argued that claimant examined Dr. Chander Bhushan in whose statement documents were marked as Exs.P1 to P236. Dr. Chander Bhushan stated in cross examination that he could not tell about the medicines prescribed by which doctor to which bills Exs.P4 to P236 pertain. He further stated that he had no concern with the bills produced by him. It is argued that the claimant did not examine a representative of the chemist shop that issued the bills. It is further argued that in some of the bills, name of the claimant or date has not been mentioned.

Counsel representing the claimant, on the contrary, would argue that the injured remained admitted in PGI, Chandigarh for a period of approximately 90 days and it was not expected from his family to maintain complete records of medical treatment. It is further argued that original bills were produced and most of the bills relate to the period when the injured remained under treatment as an indoor patient and certain bills pertain to medical treatment after discharge from the hospital.

To substantiate his plea with regard to enhancement of compensation, it is argued that compensation allowed by the Tribunal for future medical treatment, transportation, special diet, attendant charges and pain and sufferings is grossly inadequate and merits increase.

I have heard counsel for the parties, perused the paper book

and records.

As per case set up by the claimant, the accident took place when Surinder Singh @ Soni was driving the aforesaid motorcycle on which Satpal Singh, author of FIR was a pillion rider. Satpal Singh and Surinder Singh appeared in the witness box to establish that accident took place due to rash and negligent driving of offending tractor trolley. Satpal Singh deposed that tractor trolley was brought on wrong side of the road and hit against motorcycle driven by Surinder Singh @ Soni. On due investigation of FIR, Jaswinder Singh was put to trial for causing the accident. Jaswinder Singh did not appear in the witness box to counter testimony of Satpal Singh and Surinder Singh, therefore, an adverse inference is liable to be drawn against the respondents before the Tribunal. Not only this, the appellant has not alleged any hostility for falsely indicting his vehicle in the criminal proceedings lodged at the behest of Satpal Singh. Taking into consideration the evidence adduced by the claimant that accident was caused when the tractor driver brought it on wrong side and hit the motorcycle driven by Surinder Singh @ Soni, it is difficult to accept contention of the appellant that findings of the Tribunal on issue No.1 can be faulted with on any count whatever. In this view of the matter, findings of the Tribunal on issue No.1 are liable to be affirmed and ordered accordingly.

This brings the Court to compensation assessed by the Tribunal.

The Tribunal awarded Rs.10,27,000/-, detailed hereunder:-

Medical expenses	Rs.3,20,000/-
Special diet	Rs.12,000/-
Attendant charges	Rs.18,000/-
Pain and sufferings	Rs.25,000/-
Loss of income	Rs.24,000/-
Loss of earning capacity	Rs.4,08,000/-
Loss of enjoyment of life	Rs.2,00,000/-
Conveyance allowance	Rs.10,000/-

However, on calculation, total comes to Rs.10,17,000/-.

Counsel for the appellant has not disputed that Surinder Singh remained under treatment of PGI, Chandigarh for a period of three months. Dr. Chander Bhushan has deposed that Surinder Singh was admitted on 08.10.2011 with injuries detailed in his testimony. The injured/claimant suffered three fractures. He was operated on 15.10.2011 and 29.12.2011 and ultimately discharged on 14.01.2012. The original bills in respect of purchase of medicines during hospitalisation of the injured/claimant were produced on record. Dr. Chander Bhushan produced documents Exs.P1 to P4 pertaining to treatment given to the injured/claimant during admission in PGI, Chandigarh. Most of the bills with regard to purchase of medicines have been issued by the shops within the complex of PGI, Chandigarh. Taking into consideration the materials on record coupled with no evidence in rebuttal having been led by the appellant to challenge correctness of the bills with regard to purchase of medicines, I do not find any reason to interfere in findings of the Tribunal allowing reimbursement of medical

expenses to the tune of Rs.3 lakh. The Tribunal has awarded Rs.20,000/- for future medical treatment and there is no justification for interference.

Counsel for the claimant would inform that compensation assessed by the Tribunal has already been paid by the appellant.

Counsel for the appellant concedes to the same.

When examined in the light of materials on record, there is no justifiable ground to allow additional compensation. As such, compensation assessed by the Tribunal is kept intact.

The appeals stand disposed of accordingly. Application for additional evidence in FAO No.5478 of 2013 also stands disposed of.

03.03.2020

ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No

(REKHA MITTAL)
JUDGE