

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

122

FAO No.267 of 2021

M/s J.S. Grover Stone Crusher, Unit IInd, VPO Madhopur, Tehsil &
District, Pathankot

... Appellant

Versus

Vishal and another

... Respondents

(2)

FAO No.271 of 2021

M/s J.S. Grover Stone Crusher, Unit IInd, VPO Madhopur, Tehsil &
District, Pathankot

... Appellant

Versus

Gagandeep and another

... Respondents

Decided on : 17.03.2021

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Sushil Saini, Advocate
for the appellant (s)

(The proceedings have been conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J.

The present order shall dispose of two appeals which have
been filed under Section 173 of the Motor Vehicle Act, 1988, since both
of them arise out of the same accident which took place on 04.02.2014
involving Truck Trolla of the appellant, leading to the injuries on the
persons of the claimants-respondent No.1 in both cases.

In FAO No.267 of 2021, Vishal son of Hari Krishan has
been awarded a sum of Rs.1,94,900/- alongwith interest @ 7% from the

date of filing of his application, on account of the injuries suffered by him. Whereas in FAO No.271 of 2021, his brother Gagandeep has been awarded Rs.33,000/-. The Motor Accident Claims Tribunal, Gurdaspur (MACT) decided both the cases on 27.11.2015.

The reasoning granting the said amount was that the Maruti Car driven by Gagandeep had hit the Truck Trola bearing registration No.PB-06K-2307, which had been parked in the middle of the road, which was curving without keeping on the parking and back lights. Resultantly, to prove the said facts, Vishal had stepped into witness box and supported the version given in the claim petition. He had also produced copy of the FIR No.20 dated 09.02.2014 under Sections 283, 337, 338, 427 IPC, registered at Police Station Dinanagar as Ex.C1. Similarly, Gagandeep his brother had also put in appearance.

The stand of the appellants was that the driver of the Truck was taking food at 1:00 AM outside the Dhaba and he had helped the injured. Keeping in view the admission as such, of the factum of the accident, it was held that the accident had taken place on account of the negligent act of the driver parking the Truck at the wrong place.

In order to prove the expenses incurred for the injuries, Vishal had claimed a sum of Rs.6 lakhs and produced Dr. Ajay Abrol, Abrol Medical Centre Super Specialities Hospital, Gurdaspur as CW-3, in whose hospital he had remained admitted from 04.02.2014 to 06.02.2014. He, thereafter, had remained admitted at Guru Ram Dass Charitable Hospital, Vallah, Sri Amritsar till 05.03.2014. Subsequently due to

abdomen problem, he was again admitted in the said hospital from 25.04.2014 to 10.05.2014. He produced the medical bills as Ex.C2 to Ex.C146 alongwith reference card and discharge card as Ex.C147 to Ex.C153, in support of the expenses to the tune of Rs.1,44,900/-.

Keeping in view the fact that the plea taken was that he was working as a shopkeeper in the DTO Office, Gurdaspur, in a rented premises, whereby he was paying Rs.2563/- per month, but on account of not having able to prove the said fact, a finding was recorded that he was not working as a shopkeeper and there was no loss of income. Thus, keeping in view the facts which had been produced on record, Rs.1,44,900/- was awarded on account of the medical treatment incurred by Vishal. Another, Rs.30,000/- had been awarded, on account of the special diet, transportation, pains and sufferings, attendants' cost and mental agony, by applying the principle of guess work as such. Another Rs.20,000/- had been awarded for the loss of amenities and general damages. The compensation was on the basis of the judgment of the Apex Court passed in '**National Insurance Company Ltd. Vs. Indira Srivastava and others**', AIR 2008 SC 845 that just compensation must be awarded but it should not be a bonanza. The liability was fixed upon the appellant, since the vehicle in question was not insured at the time of accident.

Similarly, in the case of Gagandeep, it was noticed that his nasal bone had got fractured and he had also remained admitted in the same hospital in Abrol Medical Centre Super Specialities Hospital,

Gurdaspur from 04.02.2014 to 06.02.2014, his claim for Rs.4 lakhs in treatment was as such held not made out, while granting Rs.33,000/- as noticed above. To prove the factum of injuries, which were suffered by Gagandeep, Dr.Ajay Abrol, had again appeared before the MACT and proved the record, whereby bill of Rs.7760/- was exhibited as Ex.C6. The additional amount of Rs.15,000/- was paid on account of the fact that his stitches were removed on 16.02.2015 and he had been visiting the hospital for long for treatment and had been attended upon by somebody and special diet was taken, whereas Rs.8,000/- had been awarded for the expenditure incurred on the purchase of medicine and treatment and for general expenses of conveyance and special diet, Rs.10,000/- had been awarded as compensation.

Thus, the said facts would go on to show that brothers as such had proved the factum of accident as such which had taken place, on account of which they had suffered injuries. One of them suffered serious injuries as the operation of the left shoulder was done, since it had got fractured. The same had been duly proved as such by examining the doctor, who had treated him. Thereafter, he had remained admitted in the hospital at Amritsar on two occasions and on this account the amount of compensation had been assessed. The same cannot be said to be excessive in any manner, since Vishal continued to remain under medical treatment from the date of accident i.e. 04.02.2014 till 10.05.2014.

Sufficient material as such had been produced in support of the case of the claimants as such by them in the form of witness and the

medical record to justify the amount of compensation which had been awarded to both of them, on account of the injuries suffered in the accident, which was on account of the wrong parking of the vehicle at night on the road while driver of the vehicle was taking food at a Dhaba without taking necessary precautions. The vehicle being loaded, the driver did not think to expedient as such to take it off the road which is a rash and negligent act on his part, which had led to the accident taking place. Therefore, the amount of compensation which had been assessed by the MACT, does not warrant any interference.

Resultantly in view of the above discussion, there is no merit in the present appeals and the same are dismissed in limine.

March 17, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes