

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

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FAO No.998 of 1994

Date of Decision: 23.11.2022

Balbir Singh

...Appellant

Versus

Chandigarh Transport Undertaking and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Mohit Aneja, Advocate for
Mr. Rahul Sharma, Advocate
for the appellant.

Mr. Deepak Malhotra, Standing Counsel, U.T. Chandigarh
for respondents No.1 and 2.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company
(name deleted as mentioned in the impugned Award).

MEENAKSHI I. MEHTA, J. (Oral)

Feeling aggrieved and dissatisfied with the Award passed by learned Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal') on 02.04.1994, whereby the appellant-claimant (here-in-after to be referred as 'the claimant') has been awarded compensation to the tune of Rs.15,000/-, payable by respondents No.1 and 2, on account of the injuries suffered by him in a motor vehicular accident, he (claimant) has preferred this appeal to seek the enhancement of the amount of compensation.

2. Bereft of unnecessary details, the facts, culminating in the filing of the present appeal, are that the claimant filed the claim petition against the respondents, being the respective owner, driver and insurer of the Bus bearing

registration No.CHW-01A-8508 (for short 'the offending Bus') for seeking compensation amounting to Rs.15 lac, while averring that he was travelling in the said Bus and respondent No.2 was driving the same in a rash and negligent manner and had collided it (Bus) with the Mini Truck bearing registration No.CHW-7260 (for short 'the Mini Truck') and he had sustained injuries in this accident.

3. It is worth-while to mention here that in Para No.2 in the impugned Award, the Tribunal has mentioned that initially, the insurer of the offending Bus as well as the driver, owner and the insurer of the Mini Truck had also been arrayed as respondents No.3 to 6 respectively in the claim petition but however, by way of the amendment in the same, their names had been struck-off later-on.

4. The contesting respondents had filed their written statements controverting the claim of the claimant therein on various grounds. The Tribunal framed the issues and then, the parties led their evidence and after hearing their learned counsel, the Tribunal has passed the impugned Award, observing therein that the accident in question had taken place due to the negligence on the part of the drivers of the Mini Truck and the offending Bus and it (Tribunal) also assessed the amount of compensation, payable to the claimant, as Rs.30,000/- but further held that since the claimant had not impleaded the owner of the said Mini Truck as the party in the petition, therefore, respondents No.1 and 2 were liable to pay 50% share of the above-assessed amount, i.e Rs.15,000/-, to the claimant, along-with interest @ 12% Per Annum thereon from the date of filing of the petition till its realisation.

5. I have heard learned counsel for the claimant as well as learned

counsel for respondents No.1 and 2 and for respondent No.3-Insurance Company, in the present appeal and have also perused the file carefully.

6. As regards the liability of respondents No.1 and 2 to pay only 50% of the afore-mentioned amount of compensation, as assessed by the Tribunal to be payable to the claimant, it is again relevant and necessary to mention here that the Apex Court has specifically observed in **Khenyei vs. New India Assurance Co. Ltd & Ors, Civil Appeal No.4244 of 2015 (arising out of the SLP (C) No.14015 of 2010) decided on 07.05.2015** that “in case of composite negligence, the claimant is entitled to sue both or any one of the joint tort-feasors and to recover the entire compensation as the liability of the joint tort-feasors is joint and several and in such a case, apportionment of compensation between two tort-feasors vis-a-vis the claimant is not permissible and he can recover, at his option, the whole damages from any of them”. In view of the above-cited observations, it is explicit that the claimant is entitled to recover the entire amount of compensation from respondents No.1 and 2 and therefore, the said respondents would also be liable to pay the remaining 50% share of the amount of compensation, i.e Rs.15,000/-, to the claimant, along-with interest thereon @ 7.5% Per Annum from the date of the filing of the claim petition till its actual realisation. Resultantly, the appeal in hand stands allowed accordingly.

23.11.2022
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No