

246 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 27.04.2022

FAO-4668-2016

Ramphal

..... Appellant

Versus

Surjeet Kumar @ Jeeta and others

..... Respondents

FAO-4682-2016

Sunil

..... Appellant

Versus

Surjeet Kumar @ Jeeta and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sandeep Kumar Goyat, Advocate
for the appellant.

Mr. S.S.Sidhu, Advocate
for the Insurance Company.

Manjari Nehru Kaul, J.(Oral)

This order shall dispose of two FAOs bearing No.4668 and 4682 of 2016 as both of them have arising out of order dated 24.02.2016 passed by Motor Accidents Claims Tribunal, Hisar (hereinafter called as 'the Tribunal') wherein the following compensation were assessed and awarded to injured appellants on account of injuries received by them in an accident on 21.11.2010:-

		In the case of Ramphal	In the case of Sunil
Sr. No.	Head	Amount	Amount
1	Medical expenses	Rs.20,800/-	Rs.32,900/-
2	Pain and suffering	Rs.10,000/-	Rs.10,000/-
3	For special diet and transport charges	Rs.2,000/-	Rs.2,000/-
4	For loss of enjoyment of life	Rs.3,000/-	Rs.3,000/-
5	Total compensation	Rs.35,800/-	Rs.47,900/-

The amount of compensation along with interest @ 7.5% p.a. was ordered to be paid jointly and severally by respondents No.1 to 3 to the injured appellant from the date of filing of petition till its realization.

Brief facts of the case are thus; on 21.11.2010 at about 9.30 pm appellant Sunil along with appellant Ramphal and one Anil were coming from Sirsa to Bhiwani by Hyundai Verna car bearing registration No.HR-12-L-3990, which was being driven by appellant Sunil. When the appellants reached Hotel Highway Sirsa Road, Hisar a tanker bearing registration No.HR-63-A-1128 (hereinafter referred to as 'the offending vehicle') was parked in the middle of the road without any parking lights or any other signal. The appellant Sunil could not see the parked offending vehicle due to the glaring headlights coming from the front. Resultantly, the car of the appellants struck against the offending vehicle, as a result of which all the occupants of the car received multiple and grievous injuries. FIR No.972 dated 24.11.2010 under Sections 283, 337 and 338 IPC was lodged at Police Station Sadar, Hisar against respondent No.1. It was claimed that the appellant Sunil was 41 years old on the date of the accident and suffered permanent disability on account of the injuries suffered in the accident in question. It was also claimed that the appellant Ramphal was 66 years of age at the time of occurrence and received multiple injuries in the accident.

On being put to notice, respondents put in appearance. Respondents No.1 to 3 in their written statements denied the factum of accident in question and stated that the accident in question had taken place due to the negligent driving of the appellant-Sunil. Learned counsel for respondent No.3 further submitted that the driver of the offending vehicle was not holding a valid and effective driving licence and as such, the

insurance company was not liable to indemnify the owner of the vehicle.

On the basis of material and evidence led, the Tribunal awarded the compensation, which already stands reproduced above.

Learned counsel for the appellant *inter alia* contends that though the Tribunal rightly held that the accident in question had occurred due to the rash and negligent driving of the driver of offending vehicle, however, it erred in awarding a meager compensation in the sum of only Rs.35,800/- and 47,900/- respectively to the appellants. It is submitted that it was a matter of record that the appellant Ramphal was 66 years old and on account of the injuries received in the accident in question, he remained hospitalized for 5 days, as a result of which he had to undergo a lot of pain and suffering. It is further submitted that appellant Sunil, aged 41 years, had suffered permanent disability due to the injuries received in the accident and remained hospitalized for 5 days. It is submitted that the amount of compensation awarded by the Tribunal was inadequate and required to be enhanced.

On the other hand, learned counsel appearing for the insurance company submits that the impugned award did not warrant any interference as it was adequate and just. He further submits that the Tribunal had erred in fastening the liability on them by ignoring that the driver of the offending truck was plying without a valid driving licence and thus, there had been violation of the insurance policy.

After hearing learned counsel for the parties and on perusing the case file, this Court is of the opinion that the compensation awarded by the Tribunal requires to be reassessed in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court.

The injured were 66 and 41 years of age respectively at the time of accident. In addition, appellant Sunil has also suffered permanent disability in the accident in question. Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

		In the case of Ramphal	In the case of Sunil
Sr. No.	Head	Amount	Amount
1	Medical expenses	Rs.20,800/-	Rs.32,900/-
2	Pain and suffering	Rs.25,000/-	Rs.25,000/-
3	For special diet and transport charges	Rs.15,000/-	Rs.15,000/-
4	For loss of enjoyment of life	Rs.15,000/-	Rs.25,000/-
5	Total compensation	Rs.75,800/-	Rs.97,900/-

The appellants-claimants are, therefore, entitled to a total compensation of Rs.75,800/- and Rs.97,900/-respectively along with interest at the rate of 8% per annum from the date of filing of the claim petition till its actual realization which shall be jointly and severally paid in the same ratio as directed by the learned Tribunal.

With the above modifications, the instant appeal stands disposed of.

27.04.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No