

205

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

FAO NO. 1129 OF 1991

DATE OF DECISION: 04.01.2023

**State of Haryana and another
Versus**

...Appellants

Tarsem Chand and another

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Tanushree Gupta, DAG, Haryana,
For the appellants.

None for the respondents.

ARUN MONGA, J. (ORAL)

State of Haryana-owner of the offending vehicle, is in appeal before this Court against award of compensation of Rs.2,00,000/- by learned Motor Accidents Claims Tribunal, Ambala (for short 'the Tribunal') in a claim petition under Section 110-A of the Motor Vehicles Act, 1939, on account of injuries received by the petitioner in a motor vehicular accident.

2. Succinct facts shorn of unnecessary details are that on 08.03.1988, Sadhu Ram Singla accompanied by his daughter Sikha was going from Bhatinda to Hansoori via Naraingarh in car bearing registration No. PAW-2825. The said vehicle was being driven by claimant Tarsem Lal (respondent No.1 herein). Sadhu Ram Singla was sitting on the front seat whereas his daughter was on the rear seat. When the car reached Dang Brick kiln, one truck belonging to Public Works

Department (Haryana) bearing registration No.HYC-7164, which was driven by respondent- Mohan Singh, came from the opposite direction in a *zig-zag* manner and at a very high speed. On seeing the truck coming, the driver of car drove his car to extreme left side of the road, but inspite of it, the truck driver rammed his truck into the car due to which, both the claimants, namely, Sadhu Ram Singla and Tarsem Chand received serious injuries. They were removed to Naraingarh hospital by the passersby and after giving first aid they were referred to PGIMER, Chandigarh. The said accident was witnessed by one Ramesh Chand along with others, who were present at the place of occurrence. Formal FIR bearing No.35 dated 08.03.1988 was also registered at Police Station Naraingarh. On these facts, both the injured filed separate claim petitions before the learned Tribunal.

3. In the written statement filed by the contesting respondents i.e., driver of truck and State of Haryana/owner, the factum of accident was admitted but it was claimed that the accident had taken place due to rash and negligent driving of the car driver.

3.1 Respondent-driver of the offending truck further claimed that he was on government duty as he was driving the truck belonging to PWD (B&R) and therefore, State of Haryana was liable for acts done by him. He further claimed that he was going to carry fuel wood from forest depot Laha and the accident had occurred due to negligence and rash driving of the car driver. It was further claimed that it was raining heavily and it was still drizzling at the time of occurrence.

3.2 Appellant/owner of the offending truck also contested the claim on the same grounds as respondent-driver of the truck.

4. From the pleadings of the parties, following issues were framed:

1) Whether the accident in question and resultant injuries suffered by the claimant of both cases took place due to rash and negligent driving of truck No.HYC-7164 by Mohan Singh respondent No.1 during the course of his employment under State of Haryana, as alleged? OPP

2) To what amount of compensation the claimant of each case is entitled to and from? OPP

3) Whether the petition is not maintainable against respondent No.1? OPR-1

4) Relief.

5. Based on the respective evidence adduced by the parties, the learned Tribunal decided issues No.1 and 2 in favour of the claimant(s). Issue No.3 was decided against respondent-driver. Vide impugned award, claimant Tarsem Chand was held entitled to a compensation of Rs.2,00,000/- with future interest @ 12% per annum from the date of filing of the claim petition till realization. Respondent-driver and appellant/owner were held jointly and severally liable to pay the compensation amount.

6. Aggrieved, State of Haryana (owner of the offending vehicle) is in appeal before this Court.

7. Learned counsel for the appellants submits that there was no negligence on the part of truck driver and it was the car driver who was responsible for causing the accident in question. Learned Tribunal erred while deciding Issue No.1 in favour of the claimant. She further argues that exaggerated amount has been awarded in favour of the claimant and there is no cogent and convincing evidence to prove the salary of the injured/claimant.

8. Having perused the record and heard the learned counsel for the appellants, I am of the opinion that the learned Tribunal has recorded sound and valid reasons for its findings/conclusions on all the issues and the same do not call for any interference in appeal. For ready reference, para Nos.40, 41 and 42 of the impugned award are reproduced hereunder:

“40. The total medical bills produced by petitioner Tarsem Lal was only about Rs..6263.65 paise. He may have implaced or lost some of the medical bills since he had remained & admitted in the PGI for more than two months and also been under treatment with the Doctor at Bhatinda. His Medical expenses are, therefore assessed at Rs.15,000/-. Since he still requires another operation he may have to spend some amount for future treatment which may be assessed at Rs.10,000/-. I, therefore, find that for medical expenses already incurred by him and the future medical expenses petitioner Tarsen Lal is entitled to a compensation of Rs.25,000.

41. As regards the expenses incurred by him on attendants and relations who had becoming him at Chandigarh during his admission for about two months, petitioner Tarsem Lal has not produced any documentary evidence but the same are assessed at Rs.5000/-. The petitioner has suffered 90% disability and remained admitted in the P.G.I, for more than two months and had remained under traction for more than two months. His pained sufferings can, therefore, be well imagined. I, therefore find that he is entitled to compensation of Rs.30,000/- on account of pain and suffering. Petitioner Tarsem Lal had also deposed that he had lost his job and could not employed as a driver, as his right leg was not working. Professor V.P. Bansal had declared his permanent disability at 90% at the time of the accident. The petitioner was getting a salary of Rs.875/- 90% i.e. Rs.785/- per month i.e. approximately Rs..9500/-per annum. By applying a multiplier of 16 he would be entitled to a compensation of Rs.1,52,000/- but since the petitioner would be getting the lump sum amount his loss in terms of future Income is assessed at Rs.1,40,000 /-.

42. For the reasons discussed above, I, therefore, hold that petitioner Tarsem Lal would be entitled to a total compensation of Rs.2,00,000/- with interest at the rate of 12% per annum from the date of filing of the petition till realization. Respondents No.1 & 2 would be liable to pay his compensation jointly and severally.”

9. Having seen the discussion of the Tribunal on the evidence adduced by both the parties, though I am of the view that claimant Tarsem Chand deserves higher compensation in view of the nature of the injuries and the loss of business given the income proof produced by him. However since he has acquiesced to the award and chosen not to file any cross-appeal, this Court would refrain from interfering with the award which has since attained finality and there is no stay and amount has already been paid and claimant Tarsem Chand has acquiesced to the same.

10. In the premise, no grounds are made out to interfere.

11. Dismissed.

12. On a Court query, learned counsel appearing for the appellant is unable to respond as to whether the entire amount as per the award has been paid or not. Be that as it may, in case the same has been paid, then statutory amount of Rs.25,000/-, which was a pre-condition for filing the appeal, if deposited, be paid back to the appellant by the Registry subject of course to furnishing of the proof by the appellants that the compensation, as per the award, has been fully paid to the claimant Tarsem Chand.

JANUARY 04, 2023
Shalini

(ARUN MONGA)
JUDGE

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