

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-7284-2015 (O&M)
Date of decision: 26.05.2023

Raman Kumar

...Appellant

VS

Vikramjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vipul Sharma, Advocate for
Mr. Ashwani Arora, Advocate,
For the appellant.

Mr. Kulwinder Singh, Advocate for
Mr. S.S.Sarwara, Advocate,
For respondent No.2.

ARUN MONGA, J. (ORAL)

Aggrieved by inadequate compensation, the claimant has assailed herein an Award dated 20.11.2014 rendered by learned Motor Accidents Claims Tribunal, Chandigarh (for brevity, "Tribunal"), seeking enhancement thereof.

2. Succinct facts, as noted by the Tribunal, are as below:-

"....Accident occurred on 31.7.2007 at about 11:05 am near Quiet Office, Sector 35, Chandigarh and case FIR No. 263 dated 10.9.2007 under Section 279,337,338 of IPC is registered. Claimant was driving motor cycle while Satish Kumar was sitting on the pillion seat when motor cycle was struck by a car. The claimant has submitted that he suffered injury and lastly his right arm has been amputated and he suffered other multiple injuries. He has been treated by doctors of PGI Chandigarh and still he is under treatment and spent 1,00,000/- on his medical treatment so far. He has claimed 20,00,000/- for loss suffered due to permanent disability, loss of earning, loss of earning capacity,

expenditure on medicine, conveyance and special diet, loss of social status, mental agony, for pain and suffering past, present and future life, expenditure on attendant, loss of enjoyment of future life and entertainment of guests, etc. As regards cause of accident, it is submitted that on 31.7.2007 at about 11:05 am he was going on road leading from Sector 35 to Sector 37, Chandigarh while driving a motor cycle at slow speed and on left side of the road. Shri Satish was sitting on pillion seat of his motor cycle. After crossing the market of Sector 35, Chandigarh, when they reached in front of quiet office Sector 35, Chandigarh, at that time a car bearing registration No. PB39-A-4099 came at fast speed from their behind and struck against motor cycle of claimant. The aforesaid car being driven at fast speed and in a rash and negligent manner Vikramjit Singh respondent No.1. As a result of this accident, he and Satish Kumar fell down on the road along with their motor cycle and claimant received serious injuries. Accident took place due to rash and negligent driving of said car driven by Vikramjit Singh respondent No.1. A criminal case was registered against Vikramjit Singh for causing accident on the basis of statement of Satish Kumar.”

3. Upon notice of the claim petition, respondent No. 2 (owner of the car) appeared and filed written statement. She inter alia raised objections that there was no cause of action to institute the claim. It was pleaded that answering respondent has already sold vehicle in question to one Bikram Singh (respondent No.4) on 06.10.2005 much prior to the date of alleged accident. Rest of the averment of the claim petitions were also denied.

3.1 Respondent No.4 (subsequent purchaser of alleged offending car) in his written statement also denied the factum of accident. It was pleaded that claimant has not suffered any injury in the alleged accident and claimant be put to strict proof for proving all these facts.

4. Based on rival pleadings, learned Tribunal framed the following issues:

“1. Whether claimant received injuries in a motor vehicular accident which was caused due to rash and negligent driving of car No.PB39-A-4099 which was being driven by respondent No.1? OPP
2. Whether claimant is entitled to compensation on account of injuries received by him in a motor vehicular accident? OPP
3. Relief.”

5. Respondent No.1 was also arrayed as respondent No.4. On appraisal of record/evidence, learned Tribunal held that accident occurred due to rash and negligent driving of respondent No.4 in which claimant has suffered head injury but there was no injury on the arm and the amputation of arm is not in consequence of any such accident. Issue No.1 was decided accordingly. Issue No.2 was decided in favour of claimant. Consequently, compensation of Rs.37,000/- was computed and awarded in favour of claimant.

6. I have heard competing contentions of both learned counsels and have gone through case file with their assistance.

7. Despite ample opportunities, no reply has been filed to CM-22854-CII-2015 seeking additional evidence in the form of Outdoor Ticket as Annexure A-1 to prove that arm of appellant was amputated only due to the injuries suffered by him in the accident in question.

7.1. In fact, on the last date of hearing i.e., on 22.03.2023, matter was heard by a Coordinate Bench presided over by my learned brother B.S.Walia, J., and following order was passed:

“Reply to the application for leading additional evidence is stated to not have been filed till date despite notice in the said application having been issued on 10.12.2015 None is present on behalf of the respondents.

Although no case is made out for grant of further adjournment for filing of reply, yet, in the interest of justice, adjourned to 20.04.2023, for filing reply to the application

for leading additional evidence, subject to payment of costs of Rs.2000/- to be paid by the respondents with the High Court Advocates' Welfare Fund, while making it clear that in the eventuality of non-filing of reply three days before the next date with copy to learned counsel for the applicant-appellant, the application shall be heard and decided, in accordance with law."

7.2. *Apropos*, neither costs have been deposited nor reply has been filed. Learned counsel for respondent No.2 states that he has no objection, if the application is allowed. For the reasons stated in application, same is, accordingly, allowed.

7.3. In view thereof, the additional evidence be adduced before learned Tribunal, in accordance with law. Matter is remanded and impugned award is set aside, Learned Tribunal to pass fresh award after considering the additional evidence as allowed herein above.

8. Disposed of accordingly.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

26.05.2023
vandana

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