

2023:PHHC:057755

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4875-2014 (O&M)
Date of Decision: April 24, 2023

Vinod Sharma

...Appellant

VERSUS

Lakhwinder Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sandeep Kotla, Advocate
for the appellant.

Mr.H.S.Tulli, Advocate for
Mr.S.S.Rangi, Advocate
for respondents No.1 and 2.

Mr.Vinod Chaudhri, Advocate
for respondent No.3-insurance company.

ARCHANA PURI, J.

Challenge in the present appeal is to the Award dated 24.07.2013 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted to the appellant-claimant to the extent of Rs.50,000/-, on account of damage caused to his Indica car bearing registration No.HR-20N-2484.

As per version of the appellant-claimant pleaded in the claim petition, he is the registered owner of car bearing registration No.HR-20N-2484. On 11.06.2009, Krishan Kumar (since deceased) along with his wife and children was going from Hisar to Chandigarh in the aforesaid car,

which was being driven by Dayal Singh @ Nihal Singh. When they reached near Petrol Pump, village Regarh, on Samana-Patiala road, then a truck bearing registration No.PB-10BD-5353 (hereinafter referred to as offending vehicle), which was proceeding ahead of their car, without any indication, carelessly, rashly, negligently and suddenly applied the brakes, without steering to the left side and as a result of the same, the car in question dashed into the back side of the offending vehicle. The occupants of the car suffered the injuries and Krishan and Saroj, later on succumbed to the injuries.

It is further alleged that the accident in question took place, on account of sole rash and negligent driving of offending vehicle by respondent No.1, regarding which FIR No.192 dated 11.06.2009, under Sections 279, 337, 304-A and 427 IPC, was registered at police station Samana.

Also, it is averred that in the accident in question, the over all value of the aforesaid car has diminished. The appellant-claimant had spent Rs.2 lakh, on the repair of the car, which he got repaired from the mechanic of Budakia Auto Sales and he has also suffered financial loss, in the business, due to non-availability of the transportation and thus, has prayed for grant of compensation.

The claim petition was only contested by respondent No.3- insurance company, who filed written statement, thereby, admitting about the car in question to be insured with their company. However, the fact of accident, as such, has been denied and also alleged about the driver of the car to be not holding a valid and effective driving licence. It is further

alleged that the car was being driven in violation of terms and conditions of the insurance policy. Also, it is denied about the car to be badly damaged and also incurring of expenditure of Rs.2 lakh, upon the repair of the car has been denied.

However, to establish the fact of accident and consequential damage caused to the car and the expenditure, so incurred, vis-a-vis, repair of the car, appellant-claimant himself stepped into witness box as PW-3 and his sworn testimony is Ex.PW3/A. In the said affidavit, he had categorically stated about the fact of accident and manner of causing of the same as well as deposed about himself to be registered owner of the car in question. He also deposed about the car to have been totally damaged in the said accident caused by respondent No.1-Lakhwinder Singh, while driving the offending vehicle. He further deposed about the manner of taking the car to the workshop for repair and also deposed about having spent Rs.2 lakhs, for the repair of the car. He also categorically deposed about the car having remained parked for 1½ years and suffered great harassment, due to non-availability of the car. Furthermore, the appellant-claimant has also tendered into evidence, report of mechanic Ex.P5, certified copy of judgment dated 03.06.2011 passed in claim petition of the occupants of the car Ex.P6, copy of FIR Ex.P7 and registration certificate of the car Ex.P8. Further, the appellant-claimant had also examined PW-1 Raj Kumar Goyal, Accountant, Burakia Auto Sales, Hisar, who had proved the bills Ex.P1 to Ex.P4, issued by them. Besides the same, PW-2 Rohtash Kumar, mechanic has tendered the bill Ex.PW2/1, in his evidence.

However, no evidence, to rebut the claim of the appellant-

claimant, as such, was led by the insurance company and their evidence was closed by order.

From the aforesaid evidence adduced, it stands amply established that the accident had taken place in the manner, as alleged by the appellant-claimant, in the claim petition and that Indica car bearing registration No.HR-20N-2484, was damaged in the said accident, caused by respondent No.1. Also, it is evident that appellant-claimant is the registered owner of the aforesaid car.

The compensation, so granted, has been assiduously argued to be meagre and the bills have been wrongly reduced to 1/4th of its value. As such, a prayer has been made extensive enhancement of the compensation.

However, learned counsel for the insurance company has assiduously resisted the claim of the appellant-claimant. He submits that appellant had not led satisfactory evidence to establish the seat of damage caused to the car in question and thus considering the same and the tendency prevalent amongst the people to show inflated bills, the appellant-claimant was not even entitled to the compensation, so granted to him.

Very true, as observed by learned Tribunal, the mechanical report Ex.P5, though has been tendered into evidence, but however, the person, who had prepared the same, was the best person to depose about same, and he has not been examined. It is pertinent to mention that the Motor Vehicle Act is a benevolent piece of legislation and summary proceedings are conducted and strict rules of evidence, are not to be followed. Thus, considering the same, this document, as such, is not to be outrightly discarded. From the same, it is evident that car was not capable

of being driven. Its engine, radiator, steering etc. had broken. Even headlights, indicators and other parts of its body had also broken. Thus, it is so mentioned that the car in question is not worth operating. At the same time, learned Tribunal took into the consideration the fact that no estimate of the damaged car was obtained from the authorised service station of the Indica car. Even, damage was not got assessed from the approved surveyor. PW-2 Rohtash Kumar, has only tendered into evidence a bill Ex.PW2/1. He had admitted in cross-examination that he is not government mechanic and he is not having diploma regarding mechanicship. In the light of the same, the damage has not been got assessed from the authorised dealer.

Considering all the aforesaid factors and also keeping in view the tendency prevalent to seek inflated bills for exaggerated amounts, the scaling down of the bills, as done by learned Tribunal and the amount of compensation, so granted, as such, cannot be faulted with.

However, at the same time, it should also be noticed that on account of damage of the car, a lot of inconvenience must have been caused to the appellant-claimant. It has been so pleaded by the appellant-claimant in the claim petition and even in his affidavit, PW-3/A, he has categorically stated that car in question, remained parked for 1½ years and he had suffered great harassment, due to non-availability of the car. However, qua this harassment, so faced by the appellant-claimant, due to non-availability of his car, no cross-examination, as such, has been conducted by the insurance company. Definitely, on account of non-use of the car, the appellant-claimant, must have been forced to carry on his day-to-day activities, while using some other mode of transportation, which would have

incurred some financial burden, upon him.

Considering the same and by making some guess work, on this count, an additional amount of Rs.25,000/- is appropriate to be added to the compensation, so granted by learned Tribunal.

In view of the above discussion, the present appeal stands allowed. The amount of compensation, so granted, by the Tribunal is enhanced from **Rs.50,000/- to Rs.75,000/-**. The interest component and remaining terms of the Award, shall remain the same, as ordered by learned Tribunal.

April 24, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No