

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

FAO-1262-1992 with
XOBJC-66-CII-2001(O&M)
Date of decision:-20.04.2024

Mukesh Kumar

...Appellant

Versus

Hari Om Parkash Bhalla and others

...Respondents

CORAM: HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Ms.Nandita Aggarwal, Advocate for
Mr.Sumeet Jain, Advocate
for the appellant.

Mr.Sanjiv Pabbi, Advocate
for respondent No.3 – Cross-objector/Oriental Insurance
Company.

Mr.Rajnish Malhotra, Advocate and
Ms.Manvi Verma, Advocate
for respondent No.5 – New India Assurance Co. Ltd.

SUVIR SEHGAL, J.

1. Xerox copy of the Cross-Objections bearing No.66-CII of 2001 have been placed on record by Mr.Sanjiv Pabbi, Advocate, who is representing insurance company – respondent No.3, which are taken on record.

2. Appellant has approached this Court seeking modification of award dated 07.05.1992 passed by the Motor Accident Claims Tribunal, Ambala (for short – ‘the Tribunal’) whereby he has been granted compensation of Rs.15,000/- on account of damage to his car.

3. Facts, in brief, deserve to be noticed. As a result of a

vehicular accident between a bus and a car, Kewal Krishan sustained injuries and his son Surinder Kumar, who was driving the car, expired. Three claim petitions were filed before the Tribunal. MACT No.61 was filed by legal representatives of Surinder Kumar (deceased), MACT No.62 was filed by Mukesh Kumar (present appellant) and MACT No.63 was filed by Kewal Krishan. All the three claim petitions have been decided by the Tribunal by a common order.

4. Counsel for the appellant submits that appeals arising out of the other two claim petitions have been settled before the Lok Adalat. She submits that the appellant deserves to be awarded an amount of Rs.26,242/- on account of damage to his car as per the assessment made by the Surveyor and the award of the Tribunal deserves to be modified.

5. Appeal has been resisted by the counsel representing the respondents.

6. Pressing the cross-objections, counsel for the insurance company – respondent No.3 submits that the liability of the insurance company is limited as per the terms of the policy.

7. I have heard counsel for the parties as well as examined the available record with their able assistance.

8. On the basis of the evidence adduced before it, the Tribunal has recorded a finding that the accident took place on account of rash and negligent driving by Hardev Lal, bus driver, respondent No.2, who was in the employment of respondent No.1. This finding of the Tribunal has become final. While assessing the compensation payable under issue No.2, the Tribunal noticed that the year of the manufacturing of the car

was 1982 and had been purchased by the appellant for Rs.45,000/- in the year 1988. It was seven year old at the time it met with an accident. Surveyor came to the conclusion that damaged vehicle parts have to be replaced and they will cost Rs.26,242.62. As the vehicle is prone to depreciation, the Tribunal applied annual depreciation of 18% on the metallic parts of the vehicle. On the basis of a 50% cut on the cost of new parts, the Tribunal arrived at a figure of little more than Rs.14,000/- and assessed the damage to the vehicle at Rs.15,000/-. Besides referring to the Surveyor's report, which in the view of the Court has been properly taken into account by the Tribunal, counsel for the appellant has not been able to show any other material to claim enhancement of compensation.

9. Insofar as the cross-objections are concerned, they simply deserve to be rejected as there is nothing to show that the clause limiting the liability of the insurance company was brought to the notice of the Tribunal nor has it been shown to this Court.

10. This Court is, therefore, of the view that no interference is called for in the award passed by the Tribunal, which deserves to be upheld.

11. Both the appeal and the cross-objections are accordingly dismissed.

12. Miscellaneous application (s), if any, stand disposed of.

20.04.2024
Brij

(SUVIR SEHGAL)
JUDGE

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