

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.472 of 1991
Date of Decision : 14.3.2024

Pepsu Road Transport Corporation, Patiala *Petitioner*

versus

Ramu *Respondent*

FAO No.1494 of 1993

2024:PHHC:037698

Ramu *Petitioner*

versus

Zora Singh and another *Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ajit Singh, Advocate, for
Mr. Harsh Chopra, Advocate, for the appellant
(in FAO No.472 of 1991)
for respondent no.2 (in FAO No.1494 of 1993)

Mr. Akash Mehta, Advocate, for
Mr. Munish Gupta, Advocate, for the appellant
(in FAO No.1494 of 1993)
for the respondent in FAO No.472 of 1991)

TRIBHUVAN DAHIYA J. (ORAL):

These two appeals have been filed against the award dated 7.12.1990, and are accordingly, being decided together. One of the appeal, FAO No.472 of 1991, has been filed by the Pepsu Road Transport Corporation (for short 'the Corporation')/owner of the offending vehicle, seeking dismissal of the award passed by the Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal'), and the second appeal, FAO No.1494 of 1993, has been filed by the claimant seeking enhancement of

2. Facts of the case in brief are, the claimant was going on his cycle near his village on 13.5.1988, when he met with an accident with the offending bus bearing registration no.PJG-7310, owned by the Corporation. The claimant suffered serious injuries, causing permanent disability to him, and remained admitted in the hospital for a few months on that account.

2.1. The claim petition was partially allowed by the Tribunal vide award dated 7.12.1990, by giving finding on Issues no.1 and 2 that the accident in question was caused due to rash and negligent driving of the offending vehicle/bus, and the claimant received injuries therein. While returning finding on Issue No.3, compensation of ₹50,000 was awarded to the claimant for mental agony, shock, pain and suffering; for treatment in the hospital he was awarded ₹24,000; and for the disability suffered, he was awarded ₹36,000; in total, compensation of ₹1,10,000 along with interest at the rate of twelve per cent per annum was awarded to him.

3. Learned counsel for the Corporation has argued that the award is liable to be set-aside because the accident in question was not caused due to negligence of the respondent/driver. The cause of accident was the children going in the middle of the road; it was only to save them the driver had to turn the bus to the other side which caused the accident. Therefore, no negligence can be attributed to him and the Corporation cannot be held liable to pay the compensation.

4. Learned counsel for the claimant, on the other hand, submits that the finding of rash and negligent driving has been duly recorded by the Tribunal based on cogent evidence, and deserves to be upheld. He,

however, contends that the amount of compensation awarded to the claimant on account of disability is on a lower side, and needs to be enhanced. He was a labourer, and due to the disability suffered was unable to do labour work to earn for himself and the family. The amount awarded for the disability, accordingly, needs to be suitably enhanced.

5. Heard.

6. It has come in evidence of the claimant Ramu, AW-1, that he was riding cycle on left side of the road. The bus coming from behind, and being driven in a rash and negligent manner, hit the cycle, resulting in grievous injuries to him. The Tribunal has also observed that the driver was required to be vigilant and drive the bus at slow speed, especially when children were on the road. Had he been careful in driving the vehicle, the accident would not have occurred. These findings are based on correct appreciation of the evidence as well as the facts brought on record, and do not call for interference by this Court.

7. So far as permanent disability suffered by the claimant is concerned, the Tribunal on the basis of evidence of Dr. Gurdip Singh, Senior Lecturer, Department of Orthopaedics, Rajindra Hospital, Patiala, AW-2, held that the claimant met with an accident on 13.5.1988 and remained admitted in the hospital for about eight months. He was operated upon four times; an iron rod was inserted in his leg, and a wire in jaw. In the doctor's opinion, he would not be able to lift heavy load, and his jaw would also not be properly functioning. His disability was, accordingly, assessed to be ten per cent permanent due to shortening of leg by one inch; and ten per cent temporary due to stiffness of knee.

Looking at the nature of disability suffered by the claimant as well as his

vocation, the amount of compensation awarded for disability appears to be on a lower side, and needs to be suitably enhanced. As testified by the doctor, he would not be able to lift load while working. A labourer, who cannot take load, would not be able to do physical duties properly as lifting loads is his primary job. Resultantly, the disability would seriously impair his earning capacity, and cause extreme hardship and mental agony.

8. Keeping in view these factors and in the light of evidence led, the compensation of ₹50,000 awarded to the claimant for mental agony, shock, pain and suffering, and ₹36,000 for disabilities suffered, is cumulatively enhanced to ₹1,36,000. The enhanced compensation of ₹50,000 will be paid to him with interest at the rate of seven per cent per annum from the date of filing the claim petition till its actual realisation. The liability to pay the enhanced amount shall be the same as determined by the Tribunal.

9. Appeal filed by the Corporation stands dismissed.

10. Photocopy of this order be placed on the connected case files.

(TRIBHUVAN DAHIYA)
JUDGE

14.3.2024
Ashwani

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