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

FAO-881-1991

Date of decision: 29.08.2024

Ramesh Kumar

...Appellant

Versus

Balvinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Manmeet Singh Bindra, Legal Aid Counsel
Advocate for the appellant.

Mr. Dishant Jindal, Advocate for
Mr. Ashwani Talwar, Advocate for respondent No.3.

VIKAS BAHL, J. (ORAL)

1. The claimant has filed the present appeal for enhancement of the award dated 01.04.1991 by which a total amount of Rs.12,000/- had been awarded by the Motor Accident Claims Tribunal, Sirsa (hereinafter to be referred as “the Tribunal”) to the present appellant on account of damage caused to the combine of the tractor.

2. Learned counsel for the appellant has submitted that the appellant had suffered a total loss of Rs.80,000/- on account of damage caused to the said combine which also included the loss of earnings. It is further submitted that the harvester was for an amount of Rs.32,000/- and the chasis of the same was for an amount of Rs.3000/- and in addition to the



same, an amount of Rs.45,000/- had been suffered for the loss of earnings. It is submitted that Ram Nath, Mechanic had examined the combine of the tractor and had given his report Ex.PB and as per the said report, extensive damage had been caused to the combine, although the tractor was perfectly in order. It is also submitted that thus, the present appellant should have been awarded an amount of Rs.80,000/- and an amount of Rs.12,000/- as ordered by the Tribunal is liable to be enhanced to Rs.80,000/-.

3. Learned counsel for respondent No.3-Insurance Company has submitted that in the present case, as had been observed by the Tribunal, neither the year of purchase of the said combine had been brought on record nor any receipt regarding the same had been placed on file. It is further submitted that even the fact that a new cutter was bought for an amount of Rs.33,000/- is based on conjectures and it had been observed that Amrik Singh, PW5 does not deal with the purchase of the said cutter and had given the said figure on the basis of conjectures. It is argued that even the condition of the combine had not been mentioned and in the said circumstances, an amount of Rs.11,000/- on account of loss or damage to the cutter had been fairly given by the Tribunal. It is further submitted that with respect to the probable loss, the report Ex.PA was not even remotely proved inasmuch as Bhajan Singh who had produced the said estimate of the damages had stated in his cross-examination that he had not seen the combine at the time of preparation of the estimate Ex.PA and he had prepared it at the asking of one Pirthi Singh and that the report does not contain the number of the combine or name of its owner and that he had not seen the damage to the combine. It is also submitted that in such



circumstances, the Tribunal had still awarded an amount of Rs.1000/- on account of repair charges by way of compensation although there was no evidence on the said aspect also.

4. Learned counsel for the appellant has submitted that in view of the finding on issue No.2 and the objection raised by the counsel for the Insurance Company, it has been prayed that an amount of Rs.10,000/- be awarded as litigation expenses to the appellant since the present appellant has been pursuing the case since 1991.

5. This Court has heard learned counsel for the parties and has perused the paper book.

6. The findings of the Tribunal to the effect that only an amount of Rs.11,000/- can be awarded on account of damage to the cutter and an amount of Rs.1000/- on account of repair charges are in accordance with law inasmuch as the finding of the Tribunal on the vital aspect as mentioned in para Nos.12 and 13 has not been shown to be illegal or perverse. The Tribunal had specifically observed that neither the year of the purchase nor any receipt with respect to the purchase of the cutter had been placed on record and even the condition of the combine at the time of the accident had not been detailed and the same must have undergone wear and tear after the purchase. In the said circumstances, where even the exact value of the cutter had not been proved on record, the Tribunal had granted an amount of Rs.11,000/- after giving 1/3rd of the value of the new piece i.e., Rs.33,000/- as claimed by the appellant and the said amount cannot be stated to be on the lower side and even with respect to estimate of loss, the Tribunal had correctly come to the conclusion that the report of Bhajan Singh, who in his



cross-examination had stated that he had not seen the combine at the time of preparation of the estimate and same was prepared at the asking of one Pirthi Singh and that the report does not contain the number of the combine or name of its owner nor he had seen the damage to the combine, was not proved and the amount as awarded on the said aspect cannot be stated to be on the lesser side.

7. However, keeping in view the fact that the present appeal was filed in the year 1991 and there was substantial damage to the combine as per the report Ex.PB, this court is inclined to accept the limited prayer made by learned counsel for the appellant to the effect that litigation expenses of an amount of Rs.10,000/- be awarded to the present appellant.

8. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and the present appellant is entitled to an additional amount of Rs.10,000/- which he would get from respondent No.3-Insurance Company. Respondent No.3-Insurance Company would release the said money to the present appellant on the present appellant presenting an application with respect to the same to respondent No.3. The amount would be released within a period of six weeks from the date of receipt of the said application.

9. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

29.08.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No