

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****264****FAO-1277-2000 (O&M)****Date of Decision : 18.11.2024**

SHER SINGH

.... Appellant

VERSUS

MOHINDER SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajesh Arora, Advocate for the appellant.

Mr. D.P. Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant challenging the award dated 16.12.1999 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal'), aggrieved by the amount awarded for the damage caused to his vehicle.

2. Learned counsel for the claimant-appellant would contend that a total of ₹2,33,000 was spent on the repair of the vehicle and in addition the appellant also spent ₹3,100 on replacement of the batteries, ₹2,500 on account of crane charges and that the vehicle remained off the road for four and a half months and on the said account the claimant-appellant suffered a loss of ₹15,000 per month. It is further the contention that the Tribunal has deducted the amount, which was received by the claimant-appellant from his own insurance company towards the damage of the vehicle and that the Tribunal could not have deducted the said amount while assessing the amount to be awarded for the damage caused to the vehicle. Learned counsel would further

contend that photocopies of the bills marked 'A' and 'B' were totaling ₹1,90,921.50. In support of his arguments, learned counsel for the claimant-appellant has relied upon the judgment passed by this Court in **FAO-4396-2001** titled as **Raman Kumar V/s Ashwani Kumar & Ors.** decided on 13.09.2023.

3. *Per contra*, learned counsel for respondent No.3-Insurance Company would contend that the issue regarding 'whether the claimant would be entitled to further compensation for damage caused to his vehicle having already received the amount from his own insurance company' was dealt with by this Court in **ICICI Lombard General Insurance Company Ltd. V/s Harinder Singh Rosha [(2018) 5 RCR (Civil) 384]** wherein it was categorically held that once the amount had been received from the insurance company towards damage of a vehicle, no further amount could be awarded by the Tribunal drawing an analogy from the discussion in the previous paragraphs wherein it was held that the amount claimed under the mediclaim policy by the claimant was liable to be adjusted while awarding compensation.

4. Heard.

5. In the present case the only argument of the learned counsel for the claimant-appellant is that the claimant-appellant was entitled to the damages caused to his vehicle and that the amount already paid to him by his own insurance company was not liable to be taken into account as the said amount was paid to him because of the premium that he had been paying every year on the policy taken by him. The said argument deserves to be rejected in view of the judgment passed by this Court in the case of **Harinder Singh Rosha** (supra). In the said judgment a Single Bench of this Court, while

relying upon the judgments passed by various High Courts, held that the idea was not to over-compensate the claimants and that the amount paid under the mediclaim was liable to be adjusted against the amount being awarded by the Tribunal. On the same analogy it was also held that any damage to the vehicle which had already been paid for by the insurance company was liable to be adjusted. The claimant-appellant herein had only produced photocopies of the bills and the originals of the same were never produced on the record. Even the photocopies of the said bills were amounting to ₹1,90,921.50. Admittedly the claimant-appellant has already received a sum of ₹1,80,000 from his own insurance company. An amount of ₹8,000 was also awarded on account of loss of income suffered by the claimant-appellant during the four and a half months when the vehicle remained off the road.

6. The judgment relied upon by the learned counsel for the claimant-appellant in the case of **Raman Kumar** (supra) pertains to an injury case and thus the same would not be applicable to the facts of the present case.

7. Since there was no document proved on the record showing the amount spent on repair and the loss of income because of the truck remaining off the road, no interference is called for in the impugned award passed by the Tribunal.

8. In view of the above, I do not find any merit in the present appeal and the same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

18.11.2024

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*