



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-5050-2005(O&M)
Decided on:06.09.2024

M/s Gian Bus Service

.... Appellant

Versus

Jaswinder Singh and others

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. P.S. Punia, Advocate for the appellant.

Mr. Rishav Jain, Advocate for respondent No.1.

Mr. Vipul Sharma, Advocate for respondent No.3.

SANJAY VASHISTH, J.(Oral)

1. Being appellant-M/s Gian Bus Service registered Patiala through its partner-Sh. Gurmeet Singh has filed the instant appeal for seeking enhancement of the amount of compensation.

Claim petition bearing No.11 of 13.01.2004 has been partly allowed by Motor Accident Claims Tribunal, Patiala (for short, 'learned Tribunal') by observing that the accident took place due to the rash and negligent driving of Bus bearing No.PB 11-S-8856 by respondent No.1, due to which Bus bearing No. PAB 9791 belonging to the appellant/claimant was damaged.



2. While deciding the quantum of compensation, learned Tribunal gave its findings that though as per the report of the surveyor of the Insurance Company-respondent No.3, the bus belonging to the appellant suffered the damages to the tune of Rs.1,55,990/-, but taking note of all other relevant factors, the compensation amount is restricted to Rs.1,00,000/-. While observing so, learned Tribunal recorded a fact that Bus belonging to the appellant was 1986 model and on the day of accident i.e. 04.12.2003, it was 17 years old. Therefore, by applying the depreciation of 40% and considering all other relevant facts, the compensation amount was assessed as Rs.1,00,000/-

3. Findings recorded by learned Tribunal in paragraph No. 15 and 16 are reproduced:

“15. So, from the perusal of the entire evidence, produced on the record by both the parties, it is clear that the ill fated bus no. PAB 9791 suffered damages in this accident. Both the surveyors agree with the survey reports submitted by them i.e. report Ex.PW 3/1 submitted by Er. S.P. Singh and report Ex. R-1 submitted by Sh.K.K. Singhi, surveyor appointed by respondent No.3 insurance company, which proves that the bus suffered damages to the extent of about Rs.1,60,000/- But surveyor, appointed by the applicant Er. S.P.Singh has not deducted the depreciation, whereas the surveyor appointed by respondent No.3 insurance Company, insurer of bus No. PB11S 8856 Sh. K.K. Singhi RW1 is of the view that as the bus was very old, as such depreciation of 50% should be deducted.

16. Here I agree with the submission of the respondent insurance company because the bus in question as admitted by the claimants themselves is of 1986 model i.e. about 17 years old at the time of accident. Therefore, depreciation should be deducted. So, agreeing with the report of Er. S.P. Singh, Surveyor that the bus has suffered damage and it requires new spare parts as well as repair of the value of Rs.1,55,990/- as per his survey report Ex.PW3/1 but he has not deducted the



depreciation, the bus was about 17 years old at the time of accident, therefore, I am of the view that the depreciation of 40% should be deducted from the cost of repair of the damaged bus Rs.1,55,990/- to say Rs.1,56,000/- and its 40% depreciation amounts to Rs.56,000/- approximately because on some items i.e. labour charges and painting, denting etc. we cannot deduct depreciation. So, after deducting depreciation of Rs.56,000/- I am of the view that the claimants are entitled to a sum of Rs. One lac as compensation on account of the damages suffered by bus No.PAB9791 of the claimants.”

4 Thus, the appellant/claimant prays that he should be granted the compensation of Rs.2,00,000/- on account of the damages to the Bus alongwith prevalent rate of interest.

5. On the other hand, Mr. Neeraj Khanna, Advocate representing respondent No.3 vehemently opposes the contention of the appellant and submits that all the relevant parameters have been rightly considered by learned Tribunal and rather the appellant was not entitled for receiving of any amount of compensation, considering the age of the vehicle.

6 In addition, Mr. Neeraj Khanna, Advocate for respondent No.3 submits that even as per the prevalent law in the country, vehicle which is more than 10-15 years old, is not considered fit for being plied on the road.

7. I have considered the submissions and examined the reasons assigned in the award and find that the grievance of the petitioner can be satisfied at this stage, by awarding an amount of Rs.30,000/- (Rupees thirty thousand only) more which would still be less than the amount of Rs.1,55,990/- assessed by Surveyor of Insurance Company in his report.



8. To oppose the said enhancement of Rs.30,000/- (Rupees thirty thousand only), there is nothing available with the counsel representing the Insurance Company and therefore, this Court considers it appropriate to enhance the said amount of compensation as stated hereabove.

9. Resultantly, present appeal is partly allowed by considering the total amount of compensation for damaging of Bus bearing No. PAB 9791 as Rs.1,30,000/-. Out of the said amount, Rs.1,00,000/- has already been awarded by learned Tribunal and remaining amount of compensation of Rs.30,000/-(Rupees thirty thousand only), as observed and enhanced by this Court is to be paid to the appellant within a period of three months from today.

10. It is made clear that in case, the said enhanced amount of Rs.30,000/-(Rupees thirty thousand only) as lump sum compensation is not paid within the stipulated time period, the aforesaid amount shall be payable alongwith interest @ 7.5% per annum from the date of this order i.e. 06.09.2024.

11. Disposed of in the above terms.

06.09.2024
rashmi

[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

Yes/No
Yes/No