



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

FAO-3767-2006 (O&M)
Date of Decision: November 06, 2024

Gurdev SinghAppellant

Vs.

Gurnam Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Abhishek Sharma, Advocate and
Mr. Vishal Gupta, Advocate
for the appellants.

Mr. Sandeep Kotla, Advocate
for respondent No. 1

Mr. Suvir Dewan, Advocate
for respondent No. 4-Insurance Co.

SUDEEPTI SHARMA J.

1. This is an old matter pertaining to the year 2006 but no one has put in appearance on behalf of the Insurance Company.
2. Previously vide order dated 18.07.2024 in FAO No.1682 of 2007, this Court had already issued directions to the Insurance Companies that in the event, any of their empanelled counsel fails to appear, the Court would request the counsel empanelled with the Insurance Companies, who is present in the Court to assist in the matters. Further, the concerned Insurance Companies were directed to disburse the current scheduled fees to the counsel engaged by this Court for assisting in the matters.
3. On the asking of the Court, Mr. Suvir Dewan, Advocate accepts notice on behalf of respondent No.4-Insurance Company.



4. Learned counsel for the appellant has handed over copy of the paper-book alongwith relevant record to the learned counsel for respondent No.4-Insurance Company.

5. In view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, the Insurance Company is directed to disburse the current scheduled fees to Mr. Suvir Dewan, Advocate, the counsel engaged by this Court in the present case.

FAO No. 3767-2006

1. The present appeal has been preferred against the award dated 07.04.2006 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Ropar (for short, 'the Tribunal') for enhancement of compensation granted to the appellant, who is the owner of the animal.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that claimant is a resident of Village Kohara, Tehsil and District Ludhiana. He purchased one mule for Rs.51,500/- + Rs.1545/- in animal fair on 18.03.2003, for the purpose of pulling cart. The claimant used to earn Rs.15,000/- per month by using the said Mule for pulling of cart. On 07.04.2003, Jagdish Singh servant of the claimant had taken the mule cart for uploading the bricks in Village Bharatgarh. At about 1.30, p.m. when Jagdish Singh was going back to brick-kiln of village Dathota and reached near Government High School, Bharatgarh, in the meantime, a tipper bearing registration No. PBW-7422 which was being driven in rash and negligent manner by respondent No.1 came from the opposite direction and hit against the mule cart, which was being driven by Jagdish Singh. Due to this accident, the mule belonging to claimant suffered injuries and died at the spot. At the time of death, the said mule



earning his livelihood by plying the mule cart and with the death of said mule, he suffered irreparable loss.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition, by denying the factum of accident/compensation.

4. From the pleading of the parties, the Tribunal framed the following issues:-

- 1) Whether the death of Mule was caused by respondent No.1 on 07/04/2003 at about 1.30 p.m. near the bus stand of Village Bharatgarh while driving Tipper No.PBW-7422 in rash and negligent manner? OPP
- 2) Whether respondent No.1 was not holding a valid and legal driving licence at the time of alleged accident? OPR
- 3) Whether the claimant is entitled to compensation. If so, to what amount and from whom? OPP
- 4) Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.20,000/- alongwith interest @ 6% per annum. Hence the claimant/appellant filed the present appeal for enhancement of compensation awarded by the Tribunal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

6. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, the present appeal be allowed and the enhanced compensation be awarded to the appellant as per latest law.

7. Per contra, learned counsel for the respondent, however, vehemently

argues that the award has rightly been passed and the amount of compensation as



assessed by the learned Tribunal has rightly been granted. He prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. A perusal of the award indicates that there is no dispute to the fact that the mule belonging to the appellant died in a motor vehicular accident, occurred on 07.04.2003. The post mortem report of the said mule is also exhibited as Ex P3, which is proved on record. This shows that the mule was 4 year old at the time of accident. A perusal of the record further shows that the claimant has placed Ex P1 to prove that he purchased the deceased-mule for Rs. 51,500/-. However, the Tribunal has only granted a sum of Rs.20,000/- on account of death of the said mule.

10. In view of the above factual position, this Court deems it fit to grant compensation to the tune of Rs.40,000/- (over and above the amount awarded by the Tribunal) on account of death of mule of the appellant.

11. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nandu State Transport Corporation** (2022) 5 **Supreme Court Cases 107**, the appellant-claimant is granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

12. The Insurance Company-respondent No. 4 is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the account of the



claimant/appellant. The claimant/appellant is directed to furnish the bank account details to the Tribunal.

13. Before parting with the judgment, this Court extends its appreciation to Mr. Suvir Dewan, Advocate, for his able assistance to the Court in the present matter.

14. Further Insurance Company is directed to disburse the current schedule fees to Mr. Suvir Dewan, Advocate, within a period of ten days from the date of receipt of certified copy of this order.

15. Disposed of accordingly.

16. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

November 06, 2024
G Arora

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No