IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

201 **FAO-692-2006 (O&M)**
Date of Decision: January 10, 2025

Vijay Kumar **.....Appellant**

Vs.

Rohtash and another **.....Respondents**

201-A **FAO-693-2006 (O&M)**

Subhash **.....Appellant**

Vs.

Rohtash and another **.....Respondents**

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Tara Chand Dhanwal, Advocate for the appellants.

Mr. Sushil Sheoran, Advocate for
Mr. R.A. Sheoran, Advocate for respondent No.1.

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SUDEEPTI SHARMA J. (ORAL)

Vide this common judgment, the aforesaid two appeals are being decided as the same have arisen out of the common award dated 27.10.2005 passed by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') and the common question of law is involved in both the appeals. For brevity, facts have been taken from **FAO-692-2006.**

2. The present appeals have been preferred against the award dated 27.10.2005 passed in the claim petition filed under Section 166 of the Motor

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Vehicles Act, 1988 by the Tribunal) vide which the claim petition filed by the appellants/claimants for grant of compensation, was dismissed.

FACTS NOT IN DISPUTE

3. The brief facts of the case as mentioned in the claim petition are that on 24.9.2002, at about 3.30 p.m. claimant-Subhash was going to Village Tigrana via Hansi Chowk by driving his scooter and the claimant Vijay was pillion rider. When they reached near Tosham bye-pass on Hansi Road, Truck No. HR-13-3515 came from the opposite side being driven rashly and negligently by Rohtash-respondent no. 1 without blowing any horn, the truck struck against front side of the scooter. As a result of which, both of them fell down on the road alongwith the scooter and received multiple injuries. The accident took place due to sole rash and negligent driving of respondent No. 1 Rohtash, for which FIR No. 386 dated 24.9.2002 was lodged on the same day at Police Station Sadar Bhiwani for offences punishable under Sections 279/337 of IPC against the driver-Rohtash.

4. Upon notice of the claim petition, respondents appeared and filed written reply denying the factum of accident/compensation.

5. From the pleadings of the parties, the Tribunal framed the following issues:-

1. Whether the accident dated 24.9.2002 resulting into injuries to petitioners Subhash and Vijay Kumar took place due to rash and negligent driving of truck No. HR-13/3515 by respondent No. 1 Rohtash? OPP

2. If issue No. 1 is proved, to what amount of compensation the petitioners are entitled to and from whom? OPP

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3. Relief

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claims-petitions. Hence the claimants/appellants filed the present appeals for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

7. The learned counsel for the claimants-appellants contend that the claim petitions were dismissed only on the ground that the appellants had already received the amount by way of compromise between the parties. Therefore, he prays that the present appeal be allowed and compensation be granted to the appellants/claimants.

8. *Per contra,* Ld. Counsel for the respondents argues on the lines of the award and relied upon Ex.R-1 and Ex.R-2 which are receipts proved on record showing that full and final settlement to the tune of Rs.31,000/- was effected between the parties. He further contends that the award has rightly been dismissed by the Ld. Tribunal. Therefore, they pray for dismissal of appeal.

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

10. Relevant portion of the award passed by the Ld. Tribunal is reproduced as under:-

> *14. In view of findings on issue no. 1, it is very clear that the claimants are not entitled to compensation from the respondents. Claimant Subhash cannot claim any benefit of his own wrong.*
>
> *15. Even otherwise, respondent Rohtash RW2 and attesting witness Krishan Kumar RW1, have proved receipts Ex. R1 and Ex. R2 executed by both the claimants attested by Krishan Lal RW1 and Ghanshayam for having receipt of Rs. 31,000/- each on account of*

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receiving injuries in the accident as their full and final claim against the respondents undertaking not to file any claim petition as having compromised the matter outside the court. Both the claimants have also admitted their signatures on these receipts. There is nothing to came out from the receipts proving that matter had already been compromised after receiving sum of Rs. 31,000/- separately by both the claimants from the respondents. Therefore, on this account as well, they are not entitled for any compensation from the respondents.

16. However, learned counsel for the complainant by citing ***Bimla Devi and other versus Punjab State and others, 2001 (1) Latest Judicial Reports 744*** *has contended that the compromise in question do not affect their entitlement to claim compensation. But this ruling is of no material help to the claimants as in that case, compromise was affected in the police station for paltry sum of Rs. 2000/-. It was held by the court that said compromise was not a valid or volunteer compromise. Therefore, plea of compromise was ignored. But in the cases in hand, compromises were affected in "Bhai Biradari" without any correction sufficient and more than reasonable amounts have been given by the respondents to the claimants. The compromises were without any force, fear or coercion etc. Once a matter was compromised outside the court after receiving more than sufficient and reasonable amount, the claimants are estopped to file the claim petitions.*

17. Moreover, it cannot be said that the amount paid and received outside the court, was in any manner in adequate or not reasonable. it is admitted by both the claimants that they had received medical treatment from Government Hospital free of costs. The doctors had not charged any fee. They had spent some amount on purchasing medicines which were not available in the hospital. It is also specifically admitted by both the claimants in

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their respective cross examination that they were having receipts only for a sum of Rs. 10,000/- to Rs. 12,000/- each for purchasing medicines etc. and they have no other receipt of any other expenditure. Claimant Subhash also could not produce any record of working in Apex Computer Centre or for any other earning. Same is the case with claimant Vijay. He also could not produce on record anything to show the quantum of his earning. Both have also admitted in cross-examination that they can do their daily routine work. However, Vijay PW2 has also stated that his hands and left leg are not working properly due to which he cannot drive sewing machine but at the same time, he has admitted that sewing machines can operate upon even by one leg and foot and now a day there are electric machine available in the market. Faced with this situation, he has stated that he cannot sit on a stool for a long time because an iron rod had inserted in his leg. Claimant Subhash has also tendered in evidence Ex. PA his disability certificate showing that he is suffering from 50% disability due to left hemipalysis disease.

18. Aforesaid medical conditions of both the claimants and fact that they have not spent more than Rs. 10,000/- to Rs. 12,000/- on the medical treatment, it is very clear that a sum of Rs. 31,000/- given to both of them separately was not in any manner in adequate rather seems to be more than reasonable amount.

19. Resultantly, this issue is hereby accordingly answered in favour of the respondents and against the petitioners.

11. Upon a thorough examination of the award, it is evident that both claimants sustained injuries in the accident. Subsequently, on 15.11.2002, a "Bhai Biradari" Panchayat was convened, wherein the matter was amicably resolved through a settlement. As per the terms of the settlement, the

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respondents agreed to pay Rs. 31,000/- each to the claimants to cover expenses related to medical treatment, medicines, pain, suffering, and agony. The claimants accepted this amount as full and final settlement of all claims, explicitly undertaking not to pursue any further claim petitions.

12. The respondents have substantiated their compliance with the settlement through documentary evidence, specifically receipts Ex. R1 and Ex. R2, executed by the claimants and attested by witnesses Krishan Lal (RW1) and one Ghanshyam. Oral testimony produced by respondent Rohtash (RW2) and attesting witness Krishan Kumar (RW1) further corroborates the execution of these receipts and the disbursement of the agreed amount. Importantly, the claimants themselves admitted to having signed the receipts, affirming their acknowledgment and acceptance of the settlement terms. The receipts unequivocally reflect that the claimants voluntarily accepted the amount as full and final satisfaction of their claims against the respondents. There is no evidence on record to suggest that the settlement was vitiated by fraud, coercion, or undue influence. On the contrary, the settlement appears to have been entered into freely, with clear terms and an express undertaking by the claimants not to pursue further legal action.

13. In view of the above, the Ld. Tribunal correctly concluded that the claim petition was unsustainable, as the claimants had already received full and final amount in lieu of compensation through a lawful settlement reached outside the court.

14. In sequel of the foregoing, this court finds no legal infirmity in the award rendered by the learned Tribunal. Consequently, both the appeal are devoid of merit and are hereby dismissed.

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

(SUDEEPTI SHARMA)
JUDGE

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Whether speaking/reasoned: Speaking
Whether reportable Yes

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