
(2010) 05 P&H CK 0044
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 2447 of 2010 (O and M)

H.R.T.C., Himachal Road Transport Corporation

APPELLANT

Vs

Sansar Singh and Another

RESPONDENT

Date of Decision : 12-05-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) 1 CivCC 107 : (2010) 4 RCR(Civil) 496 : (2011) 1 TAC 343

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—For the reasons stated in the application, CM is allowed, delay of 43 days in filing the appeal, is condoned.

FAO No. 2447 of 2010

This appeal, by the owner of the offending vehicle, is directed against the award dated 2nd December, 2009, passed by the learned Motor Accident Claims Tribunal, Gurdaspur, vide which the claim petition, filed by the claimant, u/s 166 of the Motor Vehicles Act, for compensation for the injuries suffered, has been allowed.

2. The claimant/Respondent No. 1, filed a claim petition u/s 166 of the Motor Vehicles Act, on the pleadings that he was aged 35 years, and was doing agricultural work. In addition, he was also running poultry farm. He claimed his income to be Rs. 5,000/- (Rupees five thousand only) per month.

3. The case set up by the claimant was, that on 17th October, 2005, the claimant alongwith Gian Singh son of Bhako Ram was going from Pathankot to village Bhoon on scooter bearing registration No. JK-02B-5912. When they reached near village Dhangu Sarana, bus bearing registration No. HP-48-4514 came from Dunera side. The vehicle was driven by Jai Kumar, Respondent No. 2, in a rash

and negligent manner at a high speed. The case of the claimant was, that Respondent No. 2 brought bus on the wrong side of the road and struck against their scooter. In the accident, Gian Singh died at the spot, whereas claimant/ Respondent No. 1 suffered injuries. FIR No. 015 dated 17th October, 2005 was registered at police station, Dhar Kalan against the driver of the offending vehicle. The claimant was taken to Sukh Sadan Hospital, Pathankot, from where he was referred to Dayanand Medical College and Hospital, Ludhiana, where he remained admitted from 17th October, 2005 to 27th October, 2005. The claimant claimed that an amount of Rs. 1,25,000/- (Rupees one lac and twenty five thousand only) was spent on his treatment. He suffered 50% disability in the accident.

4. The claim petition was contested by the Appellant, and the driver by pleading, that bus was parked on the correct side due to mechanical defect. It was Gian Singh, deceased, driver of the scooter, who was driving the scooter in a rash and negligent manner. It was also the pleaded case, that FIR was registered against the driver of the bus due to political pressure of the deceased, and the claimant. The other averments made in the claim petition were denied.

5. On the pleadings of the parties, the learned Tribunal framed the following issues:

(1) Whether Sansar Singh claimant received injuries in a motor vehicle accident on 17th October, 2005 due to rash and negligent driving of bus No. HP-48-4514 by its driver Jai Kumar Respondent No. 2? OPA

(2) Whether the claimant is entitled to receive compensation. If so, to what amount and from whom? OPA

(3) Whether the claim petition is not maintainable against the Respondents? OPR

(4) Whether the claimant has no locus standi to file the claim petition? OPR

(5) Relief.

6. The claimant appeared in the witness box to prove the claim petition and also examined another independent witness. The copy of FIR was also exhibited, whereas the Appellant or the driver except for bald statement led no evidence to prove their version. Therefore, on appreciation of evidence, the learned Tribunal answered issue No. 1 in favour of the claimant, and held, that claimant Sansar Singh received injuries in motor vehicular accident on 17th October, 2005 due to rash and negligent driving of bus bearing registration No. HP-48-4514 by its driver Jai Kumar, Respondent No. 2, as no evidence was led to prove the version set up by the Appellant.

7. On issue No. 2, keeping in view the disability of 50%, the learned Tribunal by relying upon the law laid down by this Court in Piara Singh and Ors. v. Satpal Kumar and Ors. 2007 (2) P.L.R. 143 and in Ram Kiran Goyal Vs. Sub Divisional Engineer, Mechanical and Others, , granted compensation of Rs. 1,00,000/-

(Rupees one lac only). The learned Tribunal also granted the medical expenses incurred by the claimant, the bills of which were duly proved. In addition, a sum of Rs. 8,398/- (Rupees eight thousand three hundred and ninety eight only) was granted towards special diet. Thus, the claimant/Respondent was held entitled to compensation of Rs. 1,90,000/- (Rupees one lac and ninety thousand only) alongwith interest @ 7% per annum from the date of filing the claim petition till realisation.

8. Learned Counsel appearing on behalf of the Appellants has challenged the finding of the learned Tribunal on issue No. 2, on the plea, that the learned Tribunal wrongly allowed the medical expenses as claimed by the claimants, even though except for the statement of the claimant, no other witness was examined to prove the expenses incurred on his treatment.

9. This plea of the learned Counsel for the Appellants deserves to be noticed to be rejected. The learned Tribunal has allowed the reimbursement of the medical bills, which were duly proved, and exhibited, without any objection by the Appellants.

10. No other contention raised.

11. Finding no merit in this appeal, it is ordered to be dismissed, but with no order as to costs.