
(2014) 03 P&H CK 0163

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 1830 of 2012

Taranjit Kaur

APPELLANT

Vs

Subhash Chand

RESPONDENT

Date of Decision : 24-03-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 39

Citation : (2015) 3 ACC 3 : (2015) ACJ 550 : (2014) 175 PLR 332

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : Amit Jaiswal, Advocate for the Appellant; Rajneesh Malhotra, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

Jitendra Chauhan, J.—The present appeal has been filed by the injured-claimant, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala, ("the Tribunal", for brevity) vide award dated 30.11.2011. The learned counsel for the appellant contends that the respondent-Insurance Company has been exonerated only on the ground that the offending vehicle was carrying temporary registration number beyond the expiry of one month from its purchase. It is submitted that the Insurance Policy, Ex. R-6, was valid from 01.08.2006 to 31.07.2007, whereas the accident took place on 10.11.2006. The registration certificate was issued on 04.05.2007. Therefore, the Insurance Company was liable to satisfy the award, at least in the first instance. He cites *New India Assurance Co. Ltd. Vs. Tek Chand Gupta and others*,

2. The learned counsel further contends that the appellant suffered compound fracture dislocation of right ankle bone. She was operated upon on 10.11.2006 and discharged on 25.11.2006. She suffered permanent disability to the extent of 5% qua the limb. The compensation awarded by the learned Tribunal is on the lower side.

3. On the other hand, the learned counsel for the respondent-Insurance Company contends that the company has been rightly exonerated.

4. I have heard the learned counsel for the parties and perused the record.

5. As far as the question of liability is concerned, the learned Tribunal has rightly exonerated the Insurance Company and held the driver and owner responsible to pay the compensation jointly and severally. Admittedly, on 10.11.2006, the date of the accident, the vehicle was not validly registered with the competent authority, as per the provisions of the Motor Vehicles Act. Section 39 of the Act reads as under:-

"39. Necessity for registration.-No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place" or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carried a registration mark displayed in the prescribed manner:

Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government."

6. The above Section prohibits the driving of a motor vehicle in any public place or in any other place without registering it under the provisions of the Act. So, there is a bar against driving unless the vehicle is registered and carries the registration mark displayed in the prescribed manner. The insurance policy is also subject to the law of the land and is insignificant in this case, without valid registration number.

The argument of the learned counsel for the appellant that the vehicle was insured vide Policy Ex. R-6, from 01.08.2006 to 31.07.2007, does not cut any ice as the vehicle was not duly registered under the provisions of the Act. The case law cited by the learned counsel relates to the validity of the driving licence on the date of the accident and is not applicable on the facts of the present case. The findings on issue No. 3, are, hereby, affirmed.

7. As regards the quantum of compensation. The learned counsel further contends that the appellant suffered compound fracture dislocation of right ankle bone. She was operated upon on 10.11.2006, when surgical debridement of the wound open reduction of the fracture dislocation and fixation with Steinman's pin and a POP cast was given. She was discharged on 25.11.2006. Dr. Ashok Nandra, PW-1, also stated that it would required at least three to six months for the injuries to get completely cured. She was also advised follow-up treatment. As per Ex. P3, she suffered permanent disability to the extent of 5% qua the limb. The learned Tribunal has awarded an amount of Rs. 9,600/- for loss of future earning, which is inadequate. Accordingly, this Court feels that the ends of justice would be met in case another amount of Rs. 10,000/- is awarded under

this head. It is ordered accordingly. Furthermore, the amount of Rs. 30,000/- awarded under the head damages for pain, suffering and trauma is also enhanced to Rs. 55,000/-. It is further observed that nothing has been awarded towards special diet and transportation. Accordingly, an amount of Rs. 5,000/-, each is awarded under the above heads.

8. In view of the above, the claimant-appellant is held entitled to enhanced compensation of Rs. 45,000/-, as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, she shall also be entitled to interest as indicated in the award i.e. 7.5% per annum, from the date of filing the present appeal, till its realization. With the aforesaid modification in the impugned award, the present appeal is partly allowed.