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**(2007) 12 P&H CK 0057**  
**In the Punjab And Haryana At Chandigarh**

United India Insurance Co.

APPELLANT

Vs

Roshan Lal and Others

RESPONDENT

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**Date of Decision :** 20-12-2007

**Acts Referred:**

**Citation :** (2008) 2 PLR 734 : (2008) 2 RCR(Civil) 521

**Hon'ble Judges :** Sham Sunder, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Sham Sunder, J.—This judgment shall dispose of the aforesaid appeal, and the cross-objections against the Award dated 6.11.1989, rendered by the Court of Motor Accident Claims Tribunal, Ludhiana, relating to the same accident.

2. The facts, in brief, are that on 23.07.1986, Roshan Lai along with this other relatives, was travelling in a car, bearing registration No. AV-920 from the side of Ambala to Ludhiana, and when they reached near Dhandari Kalan, a Jeep bearing registration No. PJQ-3912, came from the opposite side, and hit against the aforesaid car. The jeep was owned by the Punjab State Electricity Board, and was attached with the office of the Executive Engineer, PSEB, Amritsar. It was being driven rashly and negligently by Parkash Chand, respondent No. 7 When the said jeep struck against the aforesaid car, Roshal Lal, claimant, sustained serious injuries. It was further stated that, subsequently, the police officials, obtained the signatures of Roshan Lal, on some blank papers, and respondent Nos. 1 and 2, in connivance with the police, changed the entire version of the accident. It was further stated that Roshan Lal also suffered fracture of his right thigh bone, on account of this accident. His right leg was shortened by half inch, which amounted to permanent disability. Therefore, he is neither able to work normally, nor walk properly, without crutches. He remained admitted in the hospital, for a considerable period, and underwent operation. He spent a huge amount, on his treatment and also suffered physical pain and mental agony, on account of the injuries, sustained by him, in the said accident. Accordingly, he

filed a claim petition, for the grant of compensation in the sum of Rs. 2.00 lacs (two lacs) against the Punjab State Electricity Board, Patiala, respondent No. 1, Executive Engineer, PSEB, Amritsar, respondent No. 2, Parkash Chand, Driver of jeep, respondent No. 7, and United India Insurance Company, the insurer of the jeep, respondent No. 6.

3. Respondent Nos. 1, 2 and 7 filed their joint written statement. It was stated that the jeep, in question, was not involved in any accident, and the entire story was concocted. It was further stated that the accident was not caused, on account of the rash or negligent driving of Jeep No. PJO-3912. The remaining averments were also denied being wrong Respondent Nos. 5, insurer of the Car, filed written statement, denying the factum of accident. It stated that its liability was only to the tune of Rs. 1,50,000/-. Respondent No. 6, the insurer of the Jeep, in question, in its separate written statement, stated that its liability was limited. Respondent Nos. 3 and 4 were not present, despite service, and they were accordingly proceeded against ex-parte, by the Claims Tribunal. From the pleadings of the parties, the following issues were struck:

1. Whether the accident has taken place with jeep No. PJO-3912 owned by the respondents, if so its effect? OPA

2. Whether the accident has taken place due to the rash and negligent driving of jeep, if so its effect? OPA

3. If the accident is proved, to what compensation the claimant is entitled thereto? OPA

4. Relief.

4. The parties led evidence, in support of their claim/After hearing the learned Counsel for the parties, the Claims Tribunal, came to the conclusion, that the accident took place, on account of the rash or negligent driving of jeep No. PJO-3912, by respondent No. 7. It was further held by the claims Tribunal, that the jeep, in question, was duly insured with the United India Insurance Company, respondent No. 6. Consequently, the Claims Tribunal awarded compensation, in the sum of Rs. 99,641.00 with interest, at the rate of 12% per annum, from the date of filing the claim petition, till realisation, under various heads, against respondent Nos. 1, 2, 6 and 7. It was further held that respondent No. 6 i.e. the Insurance Company shall indemnify respondent Nos. 1 and 2, to the entire extent of the amount of the award.

5. Feeling aggrieved, against the Award dated 6.11.89, the aforesaid appeal, was filed, by respondent No. 6, United India Insurance Company, and the cross-objections, were filed by the claimant/cross-objector, for enhancement of compensation.

6. I have heard the learned Counsel for the parties, and have gone through the record of the case, carefully. The counsel for the appellant, United India Insurance Company vehemently contended that the Claims Tribunal was wrong,

in coming to the conclusion, that the jeep, in question, was duly insured with the appellant, on the date of accident, and as such, it was liable to indemnify the owners with regard to the amount of compensation. It was next submitted by the learned Counsel for the appellant, that, in fact, the jeep, in question, was not at all insured with the appellant, on the date of the alleged accident. The submission of the learned Counsel for the appellant, in this regard, does not appear to be correct. A perusal of the written statement, filed by the United India Insurance Company Limited, respondent No. 6, the insurer of the offending jeep, clearly goes to show, that the said company never took up the plea, that the jeep, in question, was not insured with it, at the time of accident. On the other hand, as per preliminary objection No. 2 of the written statement, it was stated that the liability of the United India Insurance Company was limited, as provided in the Motor Vehicles Act. In case, the jeep in question was not insured with the appellant, at the time of accident, then such a stand could be taken up, in the written statement. By admitting its liability, as limited, in the written statement, the appellant admitted that the jeep, in question, "was insured with it, at the time of accident. The appellant also produced copy of the insurance policy (Ex. R-2), which was for the period from 19.9.86 to 18.09.87. The accident, no doubt, took place on 23.07.1986. The said policy did not relate to the period of the date of accident. Since the appellant-respondent No. 6, did not deny in the written statement filed by it, that the jeep, in question, was not insured with it at the time of accident, it can be said that the original policy of the relevant period, was not produced by it deliberately. Under these circumstances, in my opinion, the Claims Tribunal was right in coming to the conclusion, that the jeep, in question, was duly insured with respondent No. 6/Appellant. Even Mr. R.K. Bajaj, learned Counsel for respondent No. 6 on 3.10.1989, at the time of tendering the policy Ex. R-2, stated that according to the policy, the liability of the company was limited to the tune of Rs. 1,50,000/- as it was a 3rd Party Insurance only, and no extra premium, had been paid. In his statement, referred to above, he also did not state that the jeep, in question, was not insured with respondent No. 6, at the time of accident. On the other hand, he admitted the factum that it was insured with respondent No. 6, on the date of accident, but the liability of respondent No. 6, was only limited to the extent of Rs. 1,50,000/-. In this view of the matter, the contention of the learned Counsel for the appellant, being without merit, must fail and the same stands rejected.

7. It was next contended by the learned Counsel for the appellant that there was no evidence, on the record, to the effect, that the jeep in question was driven in a rash or negligent manner, by the jeep driver, at the time of accident. The submission of the learned Counsel for the appellant, in this regard, also does not appear to be correct. Roshan Lal, claimant, when appeared, in the witness box, as AW9, in clear-cut terms, stated that the jeep, in question came from the opposite side at a very fast speed in a zig-zag manner. He further stated that it went out of control, and jeep driver struck the same, against the car. He also stated that at the time of accident, he was sitting at the back side of the driver.

The Claims Tribunal was, thus, right in coming to the conclusion that on account of the rash or negligent driving of the jeep by the driver, the accident took place, resulting into injuries, on the person of the claimant/cross-objector. The Claims Tribunal was also right, in disbelieving the statements of Parkash Chand, Driver of the jeep, who appeared in the witness box, as RW1, and Rajinder Kumar, who appeared in the witness box, as R.W2, when they stated that the said jeep was not being plied, at the relevant time, but was in the work shop. There is no reason to disagree with the well reasoned findings of the Claims Tribunal, in this regard. The submission of the learned Counsel for the appellant, being without merit, stands rejected.

8. In the cross-objections, the learned Counsel for the cross-objector, submitted that the Claims Tribunal, was wrong, in granting meagre compensation, to the objector, on account of the serious injuries, suffered by him, in the accident. He further submitted that, it is a fit case, in which compensation should be enhanced. The submission of the learned Counsel for the cross-objector, does not appear to be correct. The Claims Tribunal took into consideration, the amount, spent by the cross-objector, on his medicines and the amount spent by him on account of hospital charges. The Tribunal also took into consideration the permanent disability suffered by the claimant, on account of the injuries, and loss of future income, due to the shortening of his leg. It also took into consideration, the factum of operation, the claimant had to undergo, on account of fracture of his right femur. The Claims Tribunal also took into consideration the services rendered by the attendant, who looked after the cross-objector, while he was admitted in the hospital, and the amount spent by him, for this purpose. The Claims Tribunal also took into consideration the Metadoor hire charges, spent by the claimant/cross-objector, and loss suffered by him, on account of physical pain, mental agony etc. The Claims Tribunal, under all the heads awarded compensation, to the tune of Rs. 99,641/-. The amount of compensation, awarded by the Claims Tribunal, in my opinion, could not be said to be, on the lower side, in any manner. After the perusal of findings, recorded by the Claims Tribunal, in the context of evidence, on record, in my opinion, there is no scope for enhancement of compensation, already granted by the Claims Tribunal, to the claimant/cross-objector. The submission of the learned Counsel for the claimant/cross-objector, being without merit, must fail, and the same stands rejected.

9. For the reasons recorded herein before, the appeal filed by the United Insurance company, and the cross-objections, filed by the claimant/cross-objector, being without merit, must fail, and the same stand dismissed, with no order as to costs.