

Ran Singh Vs. Karan Singh and Others

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Court : Punjab and Haryana

Decided On : May-14-2014

Appellant : Ran Singh

Respondent : Karan Singh and Others

Judgement :

F.A.O. No.1244 of 2004 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH. F.A.O. No.1244 of 2004 Date of Decision:

14. 5.2014 Ran Singh ...Appellant. Versus Karan Singh and others ...Respondents. CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL. PRESENT: Mr. B.S. Mittal, Advocate for the appellant. Mr. Paul S. Saini, Advocate for respondent No.4. None for the other respondents. AJAY KUMAR MITTAL, J.

1. The claimant feeling dissatisfied with the compensation awarded by the Motor Accident Claims Tribunal, Sirsa (for short the Tribunal.) vide award dated 2.12.2003 has filed this appeal for enhancement.

2. Briefly stated, the facts necessary for adjudication of the instant appeal as narrated therein are that on 9.7.2001, the appellant along with his brother Hanuman Singh boarded the bus in question from Fatehabad for Dariyapur, District Fatehabad being driven by respondent No.1 rashly and negligently in a very high speed. At about 5.30 P.M. when respondent No.1 stopped the bus at Bus Adda, Dariyapur, Hanuman Singh alighted from the bus and when the

appellant was in the process of alighting from the bus, respondent No.1 all of a sudden started the bus, as a result of which, the appellant fell on the road and Singh Gurbachan 2014.06.02 14:04 I attest to the accuracy and integrity of this document High Court Chandigarh F.A.O. No.1244 of 2004 -2- suffered multiple grievous injuries. The appellant was shifted to Civil Hospital, Sirsa in the said bus. FIR No.396 dated 9.7.2001 under Section 279, 337 of the Indian Penal Code, Police Station Sadar, Fatehabad was also registered against respondent No.1. Accordingly, the appellant filed a petition claiming compensation on account of injuries suffered by him. Upon notice, respondents No.1 and 4 filed their separate written statements whereas respondents No.2 and 3 filed their joint written statement. Besides raising various preliminary objections, it was pleaded that respondent No.1 was an employee of respondents No.2 and 3 and, therefore, they were liable to indemnify the damages. However, respondents No.2 and 3 pleaded that as the offending bus was insured with respondent No.4-Insurance Company, therefore, respondent No.4 was liable to pay the compensation. The other averments made in the claim petition were denied and prayer for dismissal of the claim petition was made. From the pleadings of the parties, the Tribunal framed the following issues:- 1. Whether the accident took place as a result of rash and negligent driving of Bus No.HR- 39/4857 driven by respondent No.1 Karan Singh?. OPP2 If issue No.1 is proved, whether the petitioner is entitled to compensation, if so, how much and from whom?. OPP3 Whether the claim petition is not maintainable in the present form?. OPR4 Whether the petitioner has no cause of action to file the petition?. OPR Singh Gurbachan 2014.06.02 14:04 I attest to the accuracy and integrity of this document High Court Chandigarh F.A.O. No.1244 of 2004 -3- 5. Relief.

3. The Tribunal on appreciation of evidence led by the parties, decided issue No.1 in favour of the claimant holding that the accident in question had taken place due to rash and negligent driving of the offending bus by respondent No.1. The Tribunal while deciding issue No.2 in favour of the claimant, awarded a total compensation of ` 25,000/- to be paid jointly and severally by the respondents. Issues No.3 and 4 were decided against the respondents. Accordingly, the Tribunal vide award dated 2.12.2003 allowed the claim petition and awarded a sum of ` 25,000/- as compensation to the appellant along with interest at the rate

of 9% per annum with effect from the date of filing of the petition till realization. The said amount of compensation was liable to be paid jointly and severally by the respondents. Hence, the present appeal for enhancement of compensation.

4. Learned counsel for the appellant submitted that the appellant suffered injuries and remained admitted in Civil Hospital, Sirsa for many days. He further submitted that the right leg of the appellant was fractured and he remained under treatment for long time. He suffered pain and agonies. However, the learned Tribunal has awarded a meager amount of ` 10,000/- as compensation on account of pain, sufferings, agonies and diet etc.

5. On the other hand, learned counsel for the Insurance Company submitted that just and appropriate compensation has been awarded to the appellant. He prayed for dismissal of the appeal.

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

7. It is not disputed that the appellant suffered multiple injuries. Singh Gurbachan 2014.06.02 14:04 I attest to the accuracy and integrity of this document High Court Chandigarh F.A.O. No.1244 of 2004 -4- He was 23 years of age at the time of accident and suffered fracture of his right leg. He must have suffered agonizing pain on account of the injuries. Keeping in view the age of the appellant and the injuries suffered by him, this Court feels that the compensation awarded by the Tribunal on account of pain, sufferings, agonies and special diet etc. is on the lower side and, therefore, the same is enhanced from ` 10,000/- to ` 25,000/- in lump sum towards pain and sufferings which would meet the ends of justice.

8. In view of the above, the appeal is partly allowed and the appellant is held entitled to a further sum of ` 15,000/- as compensation on account of pain and sufferings, agonies and special diet etc. besides the other amount of compensation awarded by the Tribunal. The interest and other terms would be as per the award dated 2.12.2003 passed by the Tribunal. May 14, 2014 (AJAY KUMAR MITTAL) gbs JUDGE Singh Gurbachan 2014.06.02 14:04 I attest to the accuracy and integrity of this document High Court Chandigarh

