

Devinder Kumar Vs. Haryana Roadways and ors.

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Court : Punjab and Haryana

Decided On : Jul-04-1994

Reported in : (1994)108PLR370

Judge : N.C. Jain, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 110A

Appeal No. : First Appeal From Order No. 765 of 1984

Appellant : Devinder Kumar

Respondent : Haryana Roadways and ors.

Advocate for Def. : Gulab Singh, AAG

Advocate for Pet/Ap. : P.M. Makani, Adv.

Disposition : Appeal allowed

Judgement :

N.C. Jain, J.

1. Devinder Kumar aged 22 years and his brother Mohinder Kumar, aged 16 years, both sons of Om Parkash were injured in a bus accident when they were travelling in a Haryana Roadways Bus bearing No. HRN-8249 on 18.11.1982. The bus was going from Sirsa to Delhi. When the bus was near village Moriwala at

about 430 a.m. the driver, it appears failed to notice that another bus of Punjab Roadways being out of order was parked on the left side and in this manner he struck his bus against the Punjab Roadways bus from behind causing injuries to Devinder Kumar and Mohinder Kumar. Both the brothers filed separate claim petitions. Both the claim petitions have been disposed of by Motor Accidents Claims Tribunal, Sirsa by way of a common award. Devinder Kumar has been granted compensation in the sum of Rs.10,795/- (Rs.10,000/- by way of compensation for the injuries and Rs.795/- by way of medical expenses), whereas his younger brother Mohinder Kumar has been granted compensation in the sum of-Rs.3270/- (Rs.3000/- by way of compensation for the injuries suffered and Rs.270/- by way of medical expenses.) Against the impugned award Devinder Kumar has filed FAO No.765 of 1984 and Mohinder Kumar has filed FAO No.766 of 1984. Since both the appeals have arisen out of a common award given by the Motor Accidents Claims Tribunal, Sirsa, I also propose to dispose of both the appeals by a common judgment.

2. It has been found as a fact that the accident took place on account of rash and negligent driving of the driver of the Haryana Roadways bus bearing No. HRN-8249 and therefore, the only question which arises for consideration before this Court is whether grant of compensation is just and reasonable.

3. Mr. P.N. Makani, learned counsel for the appellants has argued that there is absolutely no distinction in the case of Mohinder Kumar and that he should have been granted the same amount of compensation as his brother Devinder Kumar because he also suffered fracture of his two bones like his brother and that oral evidence in this respect has not been properly appreciated by the Tribunal. He has further argued that grant of compensation amount of Rs.10,000/- to Devinder Kumar is on the lower side in view of the nature of injuries suffered by him. I have gone through the statements of the doctors and the claimants.

4. After hearing the learned counsel for the parties and going through the evidence on record I am of the considered view that the argument is well merited. Dr. A.S. Sidhu, Medical Officer, Civil Hospital, Sirsa, PW-1 has stated that he examined Mohinder Kumar and Devinder Kumar both sons of Om Parkash on 18.11.1982

and that both the persons were admitted in the hospital. They were discharged on 30.11.1982 after applying piaster. X-ray of Mohinder Kumar revealed fracture of both bones of the left leg. Although it has been stated by Dr. A.S. Sidhu, PW-1 that condition of Devinder Kumar was more serious than his brother Mohinder Kumar and that he remained admitted in the hospital for a longer period, yet claimant Devinder Kumar has not stated that his condition was more serious than that of his brother Mohinder Kumar. Both suffered fractures of both the bones of the leg. Dr. R.K. Bishnoi, PW-2, Radiologist, General Hospital, Sirsa, has also stated that he X-rayed both Devinder Kumar and Mohinder Kumar and they had fractures of both bones in the left leg. In view thereof, no distinction can be made between the case of Devinder Kumar and Mohinder Kumar and Both are entitled to the grant of same compensation.

5. This leads me to decide as to what should be the compensation for the injuries suffered by the appellants. It has come in their statements that they remained bed ridden for a period of 8 months. Even if this version can be held to be exaggerated, it has been proved as a fact that both the appellants have suffered fractures of both bones. The injuries being grievous in nature, I am of the view that the appellants are entitled to the grant of compensation of Rs.15,000/-each for the injuries suffered by them besides medical expenses. The Tribunal has found that Devinder Kumar has incurred medical expenses of Rs.795/- and, therefore, he is held entitled to the grant of compensation amount of Rs.15,795/-. As regards Mohinder Kumar, he has proved the medical expenses to the tune of Rs.270/- and, therefore, the compensation amount in his case would be Rs.15,270/-. They are also held entitled to the grant of interest at the rate of 12% per annum from the date of the application till realisation.

6. For the reasons recorded above, both the appeals are allowed to the extent indicated above. The appellants would also entitle to have costs of the appeal which I hereby quantify at Rs. 500/- in each appeal.