

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 6547-6548 OF 2012
(Arising out of SLP(Civil) No(s).18453-18454/2012)

HARBANS LAL & ANR ETC.

...Appellants

VERSUS

JASDEV SINGH & ANR

...Respondents

O R D E R

Leave granted.

Feeling dissatisfied with the meagre enhancement granted by the learned Single Judge of the Punjab and Haryana High Court in the amount of compensation awarded by Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal'), the appellants have filed these appeals.

Both the appellants suffered grievous injuries in an accident, which occurred on 28.1.2006 when the Maruti car in which they were travelling was hit by Tempo Trax driven by respondent No.1. In the claim petitions filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the appellants pleaded that the accident was caused due to rash and negligent driving of Tempo Trax by respondent No.1; that they suffered serious multiple injuries including fractures on both the legs; that they remained admitted at D.M.C. Hospital, Ludhiana for more than a month and had incurred huge expenses and that both of them had become permanently disabled. Appellant Harbans Lal further claimed that due to the accident and consequential permanent disability, he had to close his business. He prayed for award of compensation to the tune of Rs.10,50,000/- . Appellant Saroj Rani claimed compensation of Rs.10,20,000/- by alleging that due to permanent disability she was not able to perform her household duties.

Respondent No.1 did not file reply to contest the claim petitions. However, respondent No.2 pleaded that it was not liable to pay compensation because the drivers of the vehicles involved in the accident were not holding valid driving licences and that it had not issued insurance policy in respect of the Tempo Trax.

On the pleadings of the parties, the Tribunal framed the following issues:

"1. Whether the claimant Harbans Lal had received injuries in an motor vehicular accident caused by the rash and negligent driving of respondent No.1 while driving his Tempo Trax No. PB-11-AA-9971 at 4.45 P.M. on 28.01.2006 in the revenue limits of village Suniar Heri on the road, which leads to Cheeka from Jaurian Sarkan?

2. Whether the claimant is entitled to compensation, if so to what amount and from whom?

3. Whether respondent No.1 was not holding a valid and effective driving licence on the date of accident, if so its effect?

4. Whether the Tempo Trax No. PB-11-AA-9971 was not having a valid fitness certificate, RC book, route permit at the time of accident?

5. Whether the claim petition is bad for non joinder of necessary parties?

6. Relief."

After considering the oral and documentary evidence, the Tribunal passed two separate awards dated 6.1.2011. The Tribunal held that the accident was caused due to rash and negligent driving of Tempo Trax by respondent No.1. In the case of Harbans Lal, the Tribunal noted that the claimant remained admitted in the hospital from 29.1.2006 to 24.2.2006 and again from 11.4.2006 to 15.4.2006; that he was operated for multiple fractures on his legs; that he had suffered 75% permanent disability and awarded him Rs.2,51,334/- for treatment at the hospital, Rs.30,000/- for medicines, Rs.15,000/- for attendant charges, Rs.15,000/- for special diet, Rs.10,000/- for transportation expenses, Rs.1,50,000/- for permanent disability and Rs.1,00,000/- for pains and sufferings and loss of future income. In the case of Saroj Rani, the Tribunal noted that she remained in hospital from 29.1.2006 to 24.2.2006 and again on 13.4.2006; that she was operated for multiple fractures and had suffered 60% permanent disability. The Tribunal awarded her Rs.2,00,000/- for treatment at the hospital, Rs.25,000/- for medicines, Rs.15,000/- for attendant charges, Rs.15,000/- for special diet, Rs.10,000/- for transportation expenses, Rs.1,20,000/- for permanent disability and Rs.1,00,000/- for pains and sufferings.

The appellant challenged the awards of the Tribunal by filing appeals under Section 173(1) of the Act. The learned Single Judge of the High Court neither adverted to the factual matrix of the case nor the contentions raised by the appellants in support of their claim for higher compensation and disposed of the same by recording identical cryptic judgments, the relevant portions of one of which are extracted below:

"I have heard the learned counsel for the parties and gone through the record.

Keeping in view the above facts and nature of injuries, a further amount of Rs.10,000/- is awarded under all heads. The enhanced amount of Rs.10,000/- shall be indemnified in the manner as stated in the impugned award.

Accordingly, the enhanced amount i.e., Rs.10,000/- shall be paid to the appellant within 45 days from the date of receipt of the certified copy of the judgment, failing which, the same shall carry interest @7.5% per annum, from the date of filing of the appeal, till its realization.

The present appeal is partly allowed and the impugned Award is modified to the above extent."

We have heard learned counsel for the parties and perused the record. In our view, impugned judgments are liable to be set aside because while deciding the appeals filed against the award of the Tribunal, the learned Single Judge of the High Court altogether overlooked the guiding principles laid down by this Court in Sarla Verma v. Delhi Transport Corporation (2009) 6 SCC 621, Ningamma v. United India Insurance Company Ltd. (2009) 13 SCC 710, Raj Kumar v. Ajay Kumar (2011) 1 SCC 343 and Laxman v. Divisional Manager, Oriental Insurance Co. Ltd. (2011) 10 SCC 756 for award of compensation in such cases.

For Petitioner(s) Mr. Gagan Gupta, Adv.
For Respondent(s) Mr. Aditya Tiwari, Adv.
No.1
For RR No.2 Mr. S.L. Gupta, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed, the impugned judgments are set aside and the matter is remitted to the High Court for deciding the appeals filed by the appellants against the award of the Motor Accident Claims Tribunal afresh in accordance with law.

(Parveen Kr.Chawla)	(Phoolan Wati Arora)	
Court Master	Court Master	

[Signed order is placed on the file.]