



FAO-3767-2014 (O&amp;M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

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FAO-3767-2014 (O&amp;M)

Date of Decision:25.09.2025

Cholamandalam MS General Insurance Company Ltd ... Appellant

Versus

Gaganpreet Singh and others ... Respondents

**2. FAO-2837-2016 (O&M)**

Gaganpreet Singh ... Appellant

Versus

Paramjit Singh and others ... Respondents

**CORAM : HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr. Rajneesh Malhotra, Advocate  
for the appellant in FAO No.3767 of 2014 and  
for respondent No.4 in FAO No.2837 of 2016.

Mr. Surinder Garg, Advocate  
for the appellant in FAO No.2837 of 2016 and  
for respondent No.1 in FAO No.3767 of 2014.

None for respondents No.2 to 4 in FAO No.3767 of 2014 and  
for respondents No.1 to 3 in FAO No.2837 of 2016.

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**AMARINDER SINGH GREWAL, J. (ORAL)**

1. This order shall dispose of two appeals, i.e. FAO Nos. 3767 of 2014 and 2837 of 2016, as they have arisen out of the same award dated 21.01.2014 passed by the learned Motor Accidents Claims Tribunal, Mansa (hereinafter referred to as 'the Tribunal'). The former has been preferred by the appellant-insurance company, seeking setting aside of the impugned award dated 21.01.2014 passed by the learned Tribunal and the latter has been preferred by the appellants-claimants seeking enhancement of compensation



granted to the tune of Rs.4,87,000/- vide aforesaid impugned award. For the sake of convenience, facts are being enumerated from FAO No.3767 of 2014.

3. Succinctly, the facts of the case are that on 15.03.2012, one Gaganpreet Singh (respondent no.1/claimant), was traveling in his car Santro No.DL-7CA-3458. His father Darshan Singh and one Sukhjit Singh were travelling in another car Zen No.PB-14A/0144 towards Sardulgarh. Near Thermalwala Fatak, approximately four kilometers away from Malout side from Bathinda, his car was allegedly hit by Canter bearing No.HR-57/3048 (hereinafter referred to as “the offending vehicle”), being driven rashly and negligently by respondent No.2, Paramjit Singh. As a result, he sustained multiple injuries on his head, chest and lower limbs for which he remained hospitalized at Max Super Specialty Hospital, Bathinda from 15.03.2012 to 26.03.2012 and thereafter referred to DMC, Ludhiana where he remained admitted till 14.05.2012 and continued to undergo follow up treatment. The offending vehicle was owned by respondent No.2, managed by respondent No.3 under a Special Power of Attorney and insured with appellant-insurance company. Pursuant thereto, Gaganpreet Singh (respondent No.1/claimant) filed the claim petition seeking compensation for the injuries suffered by him under the heads of medical expenses, loss of income, pain and suffering, attendant and transportation charges. On consideration of the evidence and submissions, the learned Tribunal held that the claimant suffered 50% functional disability and assessed the compensation of Rs.9,74,000/-. But since the respondent No.1-claimant was also found equally negligent in causing the accident, he was held entitled to compensation of Rs.4,87,000/-, which was ordered to be paid jointly and severally by respondents No.2 to 4



along with interest @ 7.5% per annum from the date of filing the petition till realization. Accordingly, the claim petition was partly allowed with costs. Aggrieved by the same, both the insurance company and the claimant have preferred the instant appeals.

4. Learned counsel for the appellant-insurance company in FAO No.3767 of 2014 and for respondent No.4 in FAO No.2837 of 2016 submits that the impugned award dated 21.01.2014 awarding compensation of Rs.4,87,000/- with interest @7.5% per annum is wholly illegal and unsustainable in law. It is urged that the learned Tribunal has misread the pleadings and evidence and overlooked the factum that the accident occurred solely due to rash and negligent driving of Respondent No.1-claimant, who abruptly turned his car to avoid collision with a herd, and not due to any rash or negligent driving of the driver of offending vehicle. Since respondent No.1-claimant was driving the vehicle rashly and negligently at a high speed and had lost control over the vehicle, in an attempt to avoid collision with a herd and hit against the alleged offending vehicle, liability to pay the compensation cannot be fastened upon the insurance company, being insurer of the alleged offending vehicle. Reliance in this regard is placed upon statement of PW2 Darshan Singh, who made statement before the police on the basis of which DDR was registered that the accident took place since flock of cattle came in front of the car and the accident took place in order to save them and nobody was at fault. The learned Tribunal has totally misread and misconceived the evidence brought on record to render a finding of contributory negligence and therefore, prays for setting aside of the impugned order.



5. Learned counsel for the appellant-claimant in FAO No.2837 of 2016 and for respondents No.1 in FAO No.3767 of 2014 contends that the learned Tribunal has gravely erred in holding the appellant-claimant to be equally negligent in causing the accident and though assessed a compensation of Rs.9,74,000/- but reduced the same to the extent of 50% i.e. Rs.4,87,000/-. It is urged that the learned Tribunal incorrectly assessed the monthly income of the appellant at Rs.2,000/-, despite the fact he was actually earning Rs.60,000/- per month from dairy farming and agricultural work. The Tribunal also applied wrong multiplier of 17. The interest rate of 7.5% per annum is submitted to be insufficient and ought to be 9% per annum. Further, ongoing medical expenses, special diet, and treatment costs have not been fully considered. In view of the appellant's age, earning capacity, and continued treatment, it is contended that the compensation ought to have been computed at not less than Rs.80,00,000/- with appropriate interest, and that all medical bills ought to have been admitted in evidence and accordingly, the impugned award deserves to be suitably enhanced. It is further contended that as the accident occurred due to the rash and negligent driving of driver of the offending vehicle, the appellant-claimant is entitled to full compensation and the respondents are jointly and severally liable to satisfy the same. Thus, he prays for enhancement of compensation.

6. Having heard the learned counsel for the parties and after perusing the paper book with their able assistance, this Court is of the considered view that the contentions raised on behalf of the appellant-insurance company do not merit acceptance. The learned Tribunal on a balanced appreciation of pleadings and evidence has rightly held that the



claimant was equally responsible for the accident and thus, the finding of contributory negligence to the extent of 50% rendered by the learned Tribunal does not require any interference. The doctrine of reasonable care casts a positive duty upon every driver to remain vigilant and anticipate normal road contingencies; failure to do so amounts to actionable negligence. In an attempt to avoid collision with a herd, vehicle of the claimant collided with the alleged offending vehicle. In this eventuality, doctrine of *res ipsa loquitor* is attracted and thus, the learned Tribunal has rightly held the drivers of both vehicles equally responsible for the accident. As regards quantum of compensation, in the absence of any income proof, the learned Tribunal has rightly assessed the income of the injured-claimant notionally at Rs.4000/- per month and the multiplier of 17 applied for assessing the loss of income is also correct. Other heads of compensation i.e. pain and suffering, transportation charges, attendant charges and special diet are also assessed correctly on appreciation of documentary evidence placed before it. In view of contributory negligence on the part of the claimant, the learned Tribunal has rightly restricted entitlement of compensation to the claimant to the extent of 50% of the assessed compensation.

7. In view of above, this Court finds no illegality or infirmity in the impugned award dated 21.01.2014 passed by the Tribunal and accordingly, the same is upheld. Both appeals are dismissed.

8. Misc. application(s) pending, if any, also stands disposed of.

(AMARINDER SINGH GREWAL)  
JUDGE

September 25, 2025

Pankaj*	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No