



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

**FAO-2925-1999 (O&M)
Date of Decision: April 30, 2025**

Amrik Singh

...Appellant

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rajeev Godara, Advocate
for the appellant.

Mrs.Ambika Luthra, Addl. A.G. Haryana
for respondent No.1-State.

Mr.Dheeraj Narula, Advocate
for respondent No.2.

Mr.R.K.S.Brar, Advocate
for respondent No.3.

Mr.Suvir Dewan, Advocate
for respondent No.4.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, owner of tractor bearing registration No.HYN-3902, thereby, assailing the judgment of dismissal of the claim petition, filed to seek compensation, on account of damage caused to the tractor in question, in a motor vehicular accident.

The facts germane, to be noticed, are as follows:-

That, on 01.11.1993, at about 1.00 p.m., Gurnam Singh s/o Balbir

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Singh was going from Sirsa to village Mauju Khera, on tractor bearing registration No.HYN-3902, which belonged to claimant Amrik Singh. Balbir Singh resident of village Mauju Khera was sitting on the left side mudguard. When they reached near turning point of village Mauju Khera, Balbir Singh gave an indication by raising his right hand that the tractor would move towards right side. When the tractor started moving from left side towards right side, a jeep bearing registration No.HR-03-9261, while being driven in a rash and negligent manner, came from the side of Sirsa and rammed into the tractor. The jeep was being driven rashly and negligently, as a result of whereof, the tractor was damaged. The gear box of the tractor was totally broken and remaining portion separated in two pieces. After causing the accident, the jeep itself turned turtle 2-3 times and went into the pits. Respondent No.2-Satbir Singh was driving the vehicle belonging to Hafed Department. Bachitter Singh and Mukhtiar Singh were also present at the site and saw the accident, which was caused, due to the negligence, on the part of Satbir Singh. The jeep in question was insured with respondent No.4.

However, the contesting respondents, though, have not disputed about the taking place of the accident, but however, disputed about the imputation of rashness and negligence, on the part of respondent No.2-Satbir Singh. In fact, respondent No.2 had taken the plea that the tractor was fitted with bids and jute pallies were hanging all around the tractor itself. The tractor was not visible and the accident could have been avoided, if the tractor had given space to the jeep to overtake. The tractor driver turned towards his right side, without any indication and without following the

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traffic rules.

In fact, respondent No.3 had taken the plea that the accident had taken place, purely due to rash and negligent driving of the tractor driver, namely Gurnam Singh. Even, the case was registered against the driver of the tractor and the claimant is not entitled to claim any compensation. Respondent No.4-insurance company, in the reply, had also raised preliminary objections and further took the plea that amount claimed by the claimant is exorbitant and no proof of damages has been placed on record.

Various issues were framed and the evidence was adduced by both the claimant as well as the respondents. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to be a case of contributory negligence and negligence to the extent of 75% was fastened upon respondent No.2-Satbir Singh, who was driver of the jeep involved in the accident and the blameworthiness upon Gurnam Singh, driver of the tractor, was fastened to the extent of 25%. Considering the same, it was further concluded that claimant himself has contributed to the accident in question and therefore, he is not entitled to any amount of compensation and consequently, the claim petition was dismissed.

Being aggrieved, the appellant-claimant, who is owner of the tractor, involved in the accident, has filed the present appeal.

At the very outset, be it noted that only the owner of the tractor, has filed the present appeal. Though, the finding has been recorded by learned Tribunal, on appraisal of the evidence, about it to be a case of contributory negligence to the extent of 75% and 25%, fastened upon Satbir Singh, driver of the jeep and Gurnam Singh, driver of the tractor,

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respectively, but however, learned Tribunal totally denied the compensation to the owner of the tractor. This finding is palpably erroneous.

Suffice to consider that none of the parties have assailed the finding of contributory negligence, to the ratio of 75:25%. Perusal of the impugned judgment as well as testimonies of the witnesses, more particularly, PW-2 Balbir Singh, PW-4 Gurnam Singh as well as PW-3 Amrik Singh himself and also considering the testimony of RW-2 Satbir Singh, it stands amply established that the tractor in question, at the relevant time, was filled up with bids and jute pallies were hanging all around the tractor. In fact, the tractor was not visible. Considering the same, it has been appropriately observed by learned Tribunal that the signal if any, given by Balbir Singh, who was sitting on the mudguard, was not visible to the driver of the jeep, which came from Sirsa side. At the same time, it has been appropriately held by the Tribunal that even the driver of the jeep, was required to be little more cautious and to have maintained safe distance, which was not so done by Satbir Singh.

Considering the same and also one fact, which as such, has not been observed by learned Tribunal, but it is evident that it is coming in the investigation conducted by the police authorities, the mention whereof has been made in the report under Section 173 Cr.P.C., which is coming on record, that at the relevant time, the tractor had almost turned towards its right side, when the jeep struck. This definitely establish about the jeep driven by Satbir Singh, to be not maintaining safe distance and also being driven at a high speed, which could not be controlled, even while looking at the tractor turning towards its right side. Therefore, there was definitely,



rashness and negligence, on the part of the driver of the jeep, namely Satbir Singh.

Considering the evidence in entirety, it stands established that there was blameworthiness, on the part of both the drivers. Also, from the evidence brought on record, more particularly, taking into consideration the cross-examination of Satbir Singh, driver of the jeep in question, wherein, he admitted about the tractor to have broken in two pieces, as a result of this accident, it amply establish the high speed of the jeep, following the tractor in question. In the light of the same, the blameworthiness, having fastened to the extent of 75%, on the part of Satbir Singh, driver of the jeep in question and 25%, on the part of Gurnam Singh, driver of the tractor in question, is appropriate and this finding stands affirmed.

However, learned Tribunal had not awarded any compensation to the appellant. This finding so recorded do call for intervention. The blameworthiness, as discussed aforesaid, is to the extent of 75%, on the part of driver of the jeep and 25%, on the part of driver of the tractor. To this extent of blameworthiness of 75%, the appellant, as such, is entitled to compensation, on account of damage caused to his vehicle.

The appellant-claimant has examined PW-1 Hardev Singh, who runs the tractor workshop in the name and style of Dhillon Tractors Workshop, Dabwali Road, Sirsa. He has deposed about having repaired the tractor of Amrik Singh and has also further deposed that the tractor was badly damaged, its gear box, steering, radiator and other parts as well as front tyres were also badly damaged and he replaced the gear box, clutch plates, steering, radiator, tyres etc. He further deposed that the spare parts

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were of the amount of Rs.40,000/- and Rs.4,000/- was charged as labour charges.

Even, Amrik Singh claimant, appeared in the witness box as PW-3 and has deposed about the damage caused to his tractor. He deposed that he had spent a sum of Rs.60,000/- on the repairs and Rs.4000/- was paid to Hardev Singh as labour charges. But no receipt, as such, has come on record. Furthermore, it is pertinent to mention that in cross-examination, he has admitted that the tractor was not got surveyed from the surveyor, for assessment of loss caused to the tractor. He also stated in cross-examination that he had purchased the tractor for Rs.80,000/-. PW-2 Balbir Singh has also deposed about the damage caused to the tractor.

In the light of such evidence, when there is no report of surveyor made, some guess work has to be applied to work upon the compensation. However, it is pertinent to mention that even though, the spare parts are stated to have been purchased for Rs.40,000/-, but the bills of the same, have not been duly proved. The copies of same have been simply tendered into evidence, which are Mark 'A' to Mark 'D'. But anyhow, though, the bills are in the name of Amrik Singh, but however, he never himself tendered into evidence the same, nor examined the author of the said bills.

As per the registration certificate coming on record, the year of manufacture of tractor in question is 1985. Amrik Singh had purchased the same for Rs.80,000/-. No evidence, has come on record, about the date of purchase of the said tractor by Amrik Singh.

Considering the aforesaid, in the fitness of circumstances, it shall be appropriate to work upon the loss of damage to the extent of

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Rs.40,000/-. Considering the apportionment of blameworthiness to the extent of 75%, on the part of Satbir Singh, driver of the jeep, the appellant-claimant, as such, is entitled to the grant of compensation of Rs.30,000/-, out of the aforesaid assessed amount of damage. On the amount of compensation, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. The liability of the respondents, to pay the compensation to the appellant-claimant, shall be joint and several.

With the above observations, the present appeal stands allowed.

April 30, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No