



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

**FAO-2618-1999 (O&M)
Date of Decision: April 25, 2025**

Ramesh

...Appellant

VERSUS

Shri Ram Kumar through LRs and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Vivek Suri and Mr.Dushyant Godara, Advocates
for the appellant.

Mr.Arnab Mittal, Advocate
for respondent No.1

Mr.Puneet Sharma, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by claimant-Ramesh, thereby, assailing the judgment of dismissal of the claim petition, filed at his instance, to seek compensation, on account of injuries sustained by him, in a motor vehicular accident.

Vide impugned judgment dated 15.02.1999, learned Motor Accident Claims Tribunal had disposed of four claim petitions, which were consolidated, as the same had arisen from the one and same accident.

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

That, on 28.06.1994, while in Maruti Van bearing registration

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No.PIL-9875, Angrez Singh, Satbir Singh, Ramesh (appellant) and Mange Ram had proceeded from their village Beejna to village Kirmach, Tehsil and District Karnal. The aforesaid car was driven by Angrez Singh. When they reached near Padhana turn, 1½ kms ahead from village Nilokheri, in the meantime, the tractor-trolley bearing registration No.HNQ-2648, was standing in the stationary condition in the middle of the road. There was no parking signal near the tractor-trolley at the night. The Maruti Van was driven by its driver Angrez Singh at normal speed, but there being no parking signal near the tractor-trolley, the Maruti Van struck into the stationary tractor-trolley, which was standing in the middle of the road and as a result of the same, the occupants of the Maruti Van i.e. claimant-Ramesh, besides other occupants namely, Angrez Singh, Satbir Singh as well as Mange Ram, had sustained injuries, which proved fatal, so far as Mange Ram is concerned.

The accident had taken place, on account of negligence on the part of respondent No.1-Ram Kumar. FIR No.272 dated 28.06.1994 under Sections 279, 337 and 304-A IPC was registered against driver of the tractor-trolley in police station Butana.

Three claim petitions were filed by injured-Angrez Singh, Satbir Singh and Ramesh (appellant) and fourth claim petition was filed by the legal heirs of deceased Mange Ram. All the aforesaid claim petitions were consolidated by learned Tribunal.

Ram Kumar, driver, Dharam Pal, owner and The New India Assurance Company Limited, insurer of tractor-trolley bearing registration No.HNQ-2648, were arrayed as respondents No.1 to 3, respectively.

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Respondents No.1 and 2-driver as well as owner of the offending tractor, had filed written statement, thereby, admitting about the factum of the accident, but however, took the plea that the accident had taken place, due to fault, carelessness and rash driving on the part of driver of the Maruti Van bearing registration No.PIL-9875. In fact, respondent No.1-Ram Kumar was not present at the spot, at the time of accident, nor the tractor was there. Only trolley of the tractor was standing on the left side of the road, on katcha portion. Also, it was asserted that on 28.06.1994, respondent No.1-Ram Kumar along with Chanda Singh and Paras Ram had gone to Karnal for purchase of marble for construction of their house. While returning, at about 9.00 p.m., right side wheel of the trolley got punctured near village Padhana. Ram Kumar took the trolley on katcha portion on left side of the road and went to Nilokheri to get the tube of trolley repaired. He had put some stones around the trolley, so that vehicles could pass easily on the highway. Had the driver of the Maruti Van been little more careful in driving the vehicle, the accident, could have been averted.

Likewise, respondent No.3-insurance company, in the written statement, besides taking preliminary objections, also took the same plea, vis-a-vis, negligence as asserted by respondents No.1 and 2.

Replication was filed. Issues were framed.

To substantiate their claim, various witnesses were examined by the claimants i.e. PW-1 Dr.K.K.Seth, PW-2 Vijay Kumar, Ahlmad, PW-3 R.R.Pruthi, Medical Officer, PW-4 Sh.J.K.Sharma, Automobile Engineer, PW-5 Mewa Singh, PW-6 Ramesh Nath (claimant), PW-7 Angrez Singh (claimant) and PW-8 Satbir Singh (claimant). Also, the claimants adduced



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documentary evidence, copy of MLR of Satbir Singh Ex.P1, copy of MLR of Ramesh Ex.P2, assessment report Ex.P3 and besides the same, the medical bills of other injured namely Angrez Singh and Satbir Singh were also proved. Post-mortem report of Mange Ram and the salary certificate of Mange Ram (since deceased) were also brought on record.

The respondents examined RW-1 Sh.V.K.Gupta, Advocate-cum-Local Commissioner as well as RW-2 Ram Kumar and also adduced documentary evidence.

After hearing learned counsel for the parties and on appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place due to sole negligence of the driver of the maruti van, as he was driving the van at a high speed and struck against the stationary trolley, standing on the side of the road.

In view of this finding, though, learned Tribunal had worked upon the compensation, vis-a-vis, the injuries sustained by Angrez Singh, Ramesh as well as Satbir Singh and also worked upon the compensation to be granted, on account of death of Mange Ram, in the accident in question, but however, considering the finding of negligence, on the part of driver of Maruti van, all the four claim petitions were dismissed.

Being aggrieved, appellant-claimant Ramesh has filed the present appeal.

In pursuance of the notice issued, respondents made appearance through counsel.

Learned counsel for the parties heard.

So far as, the factum of the accident is concerned, it is not



disputed that it had taken place on 28.06.1994. Also, it is not disputed that the Maruti Van driven by Angrez Singh struck the trolley on its back side, as a result whereof, the injuries were sustained by Angrez Singh, Satbir Singh as well as Ramesh Kumar and also the injuries were caused to Mange Ram, which proved fatal. However, it is pertinent to mention that respondents had though admitted about the factum of accident, but however, they disputed imputation of rashness and negligence upon respondent No.1. They had also taken the plea that it was only the trolley, which was parked on the katcha portion of left side of the road and on the tractor, respondent No.1 had proceeded to get the tube of the trolley repaired.

Considering the aforesaid manner of taking place of the accident as pleaded by the rival parties, it is pertinent to mention that all the three surviving occupants of the ill-fated Maruti Van, namely, Ramesh, Angrez Singh and Satbir Singh had stepped into witness box as PW-6, PW-7 and PW-8 respectively. All the three injured, have deposed in chorus about the manner of taking place of the accident. They had categorically deposed about the Maruti Van being driven by Angrez Singh, at normal speed, on left side of the road and that tractor-trolley was parked in the middle of the road, without taking any safety precautions.

It is pertinent to mention that while conducting cross-examination of PW-6 Ramesh Kumar, a suggestion was given that there was no trolley at the spot and the tractor was stationed on due left side of the road and similar suggestion was also given to PW-7 Angrez Singh and the same was denied. In the light of the testimony of aforesaid witnesses, also it is pertinent to mention that no such suggestion has been given to the said witnesses that



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any precautions had been taken, of putting of some safety signals, with regard to the stationing of the vehicle on the road.

It is further pertinent to mention that accident had taken place at night time. Also, it is evident from the evidence that Maruti Van struck the trolley from the backside. May it be so, but simultaneously, it is essential to take note of the fact that it is the specific case of the appellant about the tractor-trolley to be stationed in the middle of the road and that too, without any sign board or indicators of the vehicle, parked on the road.

In this regard, it is pertinent to mention that every driver of a motor vehicle, parking on any road, is required to park the vehicle, in such a way that it does not cause or is not likely to cause danger, obstruction or undue inconvenience to the other road users and if the manner of parking is indicated by any sign board or making marking on the road side, he shall park his vehicle in such a manner. Besides these precautions having not been so taken, as required, also, it is pertinent to mention that there is no evidence, coming forth, about due precautions to have been taken, while parking the tractor-trolley and putting all the safety measures, at the time of parking of the vehicle.

Also, it is significant to note that no reflectors/no lights etc. were affixed at the spot, to indicate the parking of the tractor-trolley, on the road. Though, the plea taken by the driver of the offending vehicle RW-2 Ram Kumar, that he had put some marble stones and bushes around the tractor-trolley, but no such version was put-forth to the eye witnesses in their cross-examination. In fact, he had also raised the plea, at the stage of recording of the evidence that a burning tyre near the trolley was left, but

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however, the same is an afterthought and this fact is not pleaded in the written statement, nor it was put forth, while conducting cross-examination of the eye witnesses.

There is nothing coming on record about the spot of accident also to be well lit, which could render assistance to the vehicle passing by, to spot any vehicle, parked on the road. In the given circumstances, one cannot decipher that the driver of the Maruti Van, while driving the same, could eventuate the situation, to come across the vehicle, which was parked on the road. In the given circumstances, at the maximum, it could be gathered that the driver could have noticed the vehicle, while coming very near to it. Within a fraction of few seconds, the driver also could not have been able to quickly respond to the fact of the tractor-trolley, being parked there. This error to respond spontaneously, cannot, in any manner, lead to the blameworthiness, on the part of driver of the Maruti Van, more particularly, when there was failure on the part of driver of the tractor-trolley, who had parked the vehicle, in such a manner, without taking precautions and thus, putting the occupants of Maruti Van, in a situation of danger.

Considering all the aforesaid facts, the finding recorded by learned Tribunal is palpably wrong, while concluding that the trolley was not a small thing, which was not visible from a sufficient distance and as such, the negligence was on the part of the driver of the Maruti Van, who hit the stationary trolley and also, while observing that the road, at the place of accident was straight and there was no curve, near the place of accident. This conclusion drawn by learned Tribunal is based on assumptions and presumptions, while overlooking the clear and specific testimonies of the

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eye witnesses, who gave a categoric account of the manner of taking place of the accident and categorically stated about the negligence, on the part of driver of the tractor-trolley, who parked the vehicle, without taking any safety precautions.

In the light of the same, the finding of learned Tribunal, to this effect, is erroneous and thus, the same is set aside. The accident, stands established to have been caused due to negligent act of driver of the offending vehicle.

In this backdrop, now comes the question, with regard to assessment of the compensation to be awarded to appellant-claimant Ramesh. As observed aforesaid, in the impugned judgment, learned Tribunal had also worked upon the compensation. Considering the testimony of appellant-Ramesh, who stepped into witness box as PW-6 and also considering the detail of the injuries as proved in MLR Ex.P2 and no other evidence, as such, coming on record, learned Tribunal had worked upon the lumpsum amount of Rs.6,000/-, as compensation.

It is pleaded case of the appellant-claimant that soon after the accident, he was taken to General Hospital, Karnal, where he was medico-legally examined and remained admitted there for two days. Thereafter, he was taken to Safdarjung Hospital, Delhi, where he remained admitted for one month and he had spent a sum of Rs.15,000-16,000/-, on his treatment. It is also his claim that he took treatment from private doctor for two years and in total, he had spent an amount of Rs.25,000-30,000/-, on his treatment.

However, it is pertinent to mention that apart from himself stepping into witness box, the appellant has examined Dr.K.K.Seth, Medical Officer,



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General Hospital, Karnal as PW-1, who deposed about having medico-legally examined Ramesh on 28.06.1994 and proved the copy of MLR, which is Ex.P2. As per the said MLR, the appellant had suffered following injuries:-

- 1) *Complaint of pain over left shoulder and upper chest and clavicle region. No external mark of injury. Advised x-ray and surgeon opinion.*
- 2) *Lacerated wound 1 cm x 0.5 cm over base of palmer aspect of left index finger of 1st inch space. Fresh bleeding seen. Advised x-ray.*
- 3) *Multiple lacerated wound of variable size. 0.2x0.2 cm to 1x0.5 cm over front of fore head. Fresh bleeding seen. Advised x-ray.*

Close perusal of the injuries reveals that x-ray was advised, but however, there is no evidence coming on record, about any x-ray examination having done or not. No x-ray report has been proved on record. Even, record of the treatment undergone at Delhi or from private doctor, as such, has not been proved.

In the given circumstances, learned Tribunal had appropriately concluded about the appellant-claimant to have suffered simple injuries only. No bills of the medical expenses incurred on his treatment, for the purchase of medicines etc. have been brought on record. Although, it is the version of the appellant that he was working as Sweeper in Municipal Corporation, Delhi and earning Rs.1500/- per month, but however, no evidence has been brought on record, about the appellant-claimant to have remained on leave, during the period of his treatment or not. But anyhow, fact remains that appellant-claimant had sustained injuries in the accident in



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question. Even if, he had sustained simple injuries, he is bound to have remained in traumatic state of mind. Considering the same, on the count of 'pain and suffering' and intake of 'special diet' etc., lumpsum amount of Rs.6000/- as worked upon by learned Tribunal, is just and reasonable compensation, which as such, does not call for further enhancement.

In the light of the aforesaid observations, more particularly, issue No.1, with regard to the reversal of the finding of manner of taking place of the accident, as held by learned Tribunal, the present appeal, as such, is hereby accepted and the appellant-claimant is held entitled to compensation aforesaid, on account of injuries suffered by him in the accident in question. On the amount of compensation, the appellant-claimant shall be entitled to the interest, at the rate of 8% 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 25, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No