

(2006) 09 P&amp;H CK 0330

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Criminal Revision No. 1682 of 2006

Gurmit Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** Sept. 12, 2006**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 279, 338

**Citation:** (2006) 4 RCR(Criminal) 536**Hon'ble Judges:** Tej Pratap Singh Mann, J**Bench:** Single Bench**Advocate:** D.S. Rajput, for the Appellant; S.S. Chahal, A.A.G., for the Respondent

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**Judgement**

T.P.S. Mann, J.

1.The petitioner has filed the present revision against his conviction and sentence under Sections 338 and 279 IPC. While he was sentenced to undergo RI for one year and to pay a fine of Rs. 5,000/- u/s 338 IPC, he was also sentenced to undergo RI for six months u/s 279 IPC. Both the substantive sentences were ordered to run concurrently.

2. The facts giving rise to the present case are that on 16.5.2003 at about 9.30 p.m., the petitioner while driving truck No. CH-01-M-5433 at a fast speed in rash and negligent manner, struck against the scooter of complainant Baljit Singh. As a result of this accident, the complainant suffered injuries. His legs were fractured, whereas he received injuries on his left arm as well. The scooter of the complainant was also damaged.

3. The conviction and sentences of the petitioner as mentioned above award vide judgment dated 2.12.2005 by Chief Judicial Magistrate, Fatehgarh Sahib were upheld by Sessions Judge, Fatehgarh Sahib vide judgment dated 3.7.2006. Thereafter, the present revision was filed by the petitioner, which came up for hearing before this

Court on 21.8.2006, when notice of motion was issued to Advocate General, Punjab regarding quantum of sentence only.

4. There is sufficient material on the record to sustain the conviction of the petitioner under Sections 338 and 279 IPC. The testimony of complainant Baljit Singh as PW-4 was fully corroborated by Norata Singh PW-1. It was on account of the rash and negligent driving of the petitioner that the accident in question had taken place. Dr. Sandip Kumar Kalia PW-9, deposed about the treatment given to complainant Baljit Singh at PGI, Chandigarh. The investigation part of the case was proved through the testimony of ASI Tilak Ram PW-2, while Karam Singh PW-3 proved mechanical test report of the truck and the scooter. In view of the above, conviction of the petitioner for the offences under Sections 279 and 338 IPC is affirmed.

5. Learned counsel for the petitioner submitted that the petitioner is a poor person and the only earning member of his family. He had not been involved in any such or similar case earlier. Moreover, complainant Baljit Singh had filed a claim petition u/s 166 of the Motor Vehicles Act, 1988 for the grant of compensation on account of serious and grievous injuries received by him in the accident. The said claim petition was accepted by Motor Accident Claims Tribunal, Fatehgarh Sahib on 27.7.2005 and a sum of Rs. 3 lacs was awarded as compensation. Also that the petitioner is now in custody since 3.7.2006, when his appeal was dismissed by Sessions Judge, Fatehgarh Sahib. On these premises, a prayer has been made for reducing the sentence of imprisonment awarded to the petitioner to that already undergone by him.

6. Learned counsel for the State has opposed the prayer of the petitioner by submitting that on account of rash negligent driving of the truck, the complainant suffered fractures of left humerus, distal third radius, shaft of left femur and also of right femur. The petitioner did not show any remorse after the accident and sped away from the spot in the truck.

7. Perusal of the award dated 27.7.2005 rendered by Motor Accident Claims Tribunal, Fatehgarh Sahib reveals that complainant Baljit Singh has been adequately compensated. A sum of Rs. three lacs has been ordered to be paid as compensation to him. The truck in question was insured with the New India Assurance Company Limited. Said Insurance Company was respondent No. 3 in the aforementioned claim petition. All the respondents, including the Insurance Company, have been held to be liable for the payment of compensation jointly and severally.

8. The petitioner had been facing the agony of trial and appeal for a period of more than three years. There is no material available on the record from which it could be indicated that the petitioner is involved in any other such or similar offence. He belongs to a lower strata of society. His entire family is dependent upon him. He is now in custody for the last more than two months.

9. Keeping in view the aforementioned circumstances, it would be appropriate if the sentences of imprisonment awarded to the petitioner for the offences under Sections 338 and 279 IPC are reduced to the one already undergone by the petitioner. Ordered accordingly.

With the above modification in the sentence, the revision is disposed of.