

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**FAO No.1841 of 1998 (O&M)
Date of Decision: January 21, 2015**

National Insurance Co. Ltd.

...Appellant(s)

Versus

Surinder Singh and another

...Respondent(s)

with

FAO No.1842 of 1998 (O&M)

National Insurance Co. Ltd.

...Appellant(s)

Versus

Surinder Kumar @ Salinder @ Palli and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the digest? Yes

Present: Mr. Bhupesh Dogra, Advocate for
for the appellant(s)-Insurance Company.

Mr. Bahadur Singh, Advocate
for respondent(s) no.1.

Mr. Kapil Aggarwal, Advocate for
for respondent(s) no.2.

ANITA CHAUDHRY, J.

1. These are two appeals filed by the insurance company against the award dated 30.03.1998, passed by the Motor Accident Claims Tribunal, Ambala (here-in-after referred to as the Tribunal).

2. A brief reference to the facts first. Surinder Singh s/o Niranjana Singh and Surinder Kumar @ Salinder @ Palli s/o Jagir Singh were going on a motorcycle on 31.12.1995 at about 10:30 A.M. When they had reached near village Barsu Majra, a tractor-trolley carrying 15-20 passengers driven by respondent no.1, came and hit the motorcycle from the opposite direction. Both the occupants of the motorcycle sustained injuries. Two claim petitions were filed. Both the claim petitions were consolidated and compensation was awarded to the claimants.

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3. M.A.C.T. case no. 33/1996 was filed by Surinder Singh s/o Niranjana Singh. He was an agriculturist and had an income of Rs.8,000/- per month. He had suffered a fracture of the right hip. His plea was that he had spent Rs.70,000/- on his treatment and there was a disability of 70%.

4. The Tribunal considered the evidence and calculated the liability taking the income at Rs.3,500/- per month and using the multiplier method assessed the compensation for the disability at Rs.5,29,000/- and additional amount of Rs.10,000/- was granted for pain and suffering. A sum of Rs.10,000/- was granted for loss of amenities. A sum of Rs.35,000/- was allowed for medicines and treatment. An award of Rs.5,79,000/- was passed.

5. The submission on behalf of the insurance company was that the claimant was a shopkeeper and there would be no loss in the income as he was attending to his work. He would have hired labourers for the agricultural land. It was urged that the multiplier of 17 should have been applied instead of 18 and the compensation has to be recalculated.

6. The Tribunal had taken the income of injured at Rs.3,500/- per month considering the evidence that was adduced by the claimant. Some receipts were produced to show that labourers had been engaged by the injured to look after the agricultural land even prior to the injury. The Tribunal had rejected the evidence that there was an additional income of Rs.1,50,000/- per annum from agricultural pursuit. Even otherwise the land is still owned and would be fetching the same income if not more. I would make no change in the income. As there was shortening of the right leg by two inches, the Tribunal had adopted the multiplier method but I find that instead of 18, the multiplier should have been 17. Therefore, the compensation if recalculated would come to Rs.29,400/- X 17 = Rs.4,99,800/-. It is held that instead of Rs.5,29,000/-, the claimant was entitled to Rs.4,99,800/- under the head of loss of income. The claimant was otherwise entitled to the compensation awarded on other

heads noted by the Tribunal in para no.12 to 17 i.e. Rs.50,000/-. The award is modified and it is held that the claimant was only entitled to a total sum of Rs.5,49,800/-. The enhanced amount if received would be refunded to the insurance company by the claimants.

The appeal is partly allowed.

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7. The submission made on behalf of Insurance Company was that Surinder Kumar alias Salinder alias Palli s/o Jagir Singh had income from agricultural pursuit and the Tribunal had determined the disability considering his income to be Rs.36,000/- per annum which is on the higher side.

8. A perusal of the award shows that Surinder Kumar had suffered a compound fracture of the femur and there were multiple fractures on the foot. The claimant was unable to cultivate the fields as there was disability of 60%. Since the injuries were on the leg and the foot, it would have made it difficult for the claimant to work in the fields. The Tribunal had taken the annual income at Rs.36,000/- which is not on the higher side. The Tribunal had applied the multiplier of 17 which again is correct. The amount awarded on the miscellaneous heads too are not on the higher side. There is no merit in the appeal and the same is dismissed.

With the aforesaid modification in the impugned award, the appeal (FAO-1841-1998) is partly allowed and appeal (FAO-1842-1998) is dismissed.

**(ANITA CHAUDHRY)
JUDGE**

January 21, 2015
sunil