

THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2326 of 1998

Date of decision : 28.01.2015

Bir Singh

.....Appellant

Versus

Baljinder and others

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

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

Present: Mr. Rubi Kumar, Advocate for
Mr. Vikram Singh, Advocate
for the appellant

Mr. J.S. Virk, Advocate
for respondents No. 1 and 2

Mr. Neeraj Khanna, Advocate for
Mr. Navin Kapur, Advocate
for respondent No. 3

ANITA CHAUDHRY, J.

This appeal is by the claimant seeking enhancement in the award dated 01.08.1998 passed by the Motor Accident Claims Tribunal, Karnal.

Bir Singh-appellant met with an accident on 06.04.1992 which resulted in disability to the extent of 10%. There was shortening of leg. Plea was raised that the claimant was a labourer and earned ₹ 1500/- per month. The respondents pleaded that he used to graze goats and failed to hear the horn and suffered injuries on account of his own negligence. The claimant pleaded that driver of the offending vehicle was responsible for the accident. The

claimant had pleaded that he had spent ₹ 5000/- to ₹ 6,000/- on his treatment and remained on bed for a year. The claimants could only produce bills of ₹ 400/-. No doctor was examined. The disability certificate Mark 'A' was tendered in evidence.

The submission made on behalf of the appellant is that there was a shortening of the leg and hospitalization for 15 days and the award be modified and higher amount be allowed for disability, special diet, pain and suffering and loss of income. It was urged that the appellant had remained on bed for almost a year.

Learned counsel for the Insurance company supported the judgment and urged that Tribunal had taken the income to be ₹ 1,500/- and awarded ₹ 3,000/- on account of loss of income but those days, the minimum wages were not more than ₹ 1000/- per month and the appellant had failed to examine the doctor to prove the disability certificate and no amount should have been awarded as the Insurance Company had been deprived of the right of cross examination and there is no evidence that there was shortening of the leg and it is only in the oral statement of the appellant.

The Tribunal had noted the injuries suffered by the appellant in para 23 of the award. Dr. G.S. Arora had proved the MLR Ex. P.1 which refers to abrasions on the forehead, left shoulder and lateral side of the right iliac bone. There was a bone deep cut over the left eye. The appellant had failed to prove the x-ray report. The marked documents were considered by the Tribunal.

The minimum wages in Haryana the were ₹ 1066/- p.m.

The Medical Officer gave the percentage of disability at 10% of the

limb. The functional disability of the entire body could not be more than 5% and if the calculations are made loss on account of disability would be $53.3 \times 12 \times 14 = ₹ 8954.40$ rounded it off to ₹ 8955/-. The Tribunal had awarded ₹ 4,000/-, therefore, an increase of ₹ 4,955/- only would be payable.

The Tribunal had awarded double the amount of the sum spent on purchase of medicines, therefore, no change is to be made. However, I would add ₹ 1,000/- for pain and suffering and ₹ 1,000/- for attendant charges. The appellant is entitled to an increase of ₹ 6,955/- i.e. ₹ 7,000/- which would be payable within two months failing which the claimants shall be entitled to interest @ 6% from the date of filing of the appeal till realization.

28.01.2015

reena

(ANITA CHAUDHRY)
JUDGE