

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

FAO No.1513 of 2002 (O&M)

Smt.Bhateri Devi

...Appellant

Versus

Sukhdev Singh and others

...Respondents

(2)

FAO No.1514 of 2002 (O&M)

Sunil Kumar

...Appellant

Versus

Sukhdev Singh and others

...Respondents

Date of Decision: July 14, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jitender Dhanda, Advocate
for the appellant.

Service of respondent No.1 dispensed with.

None for respondent No.2.

Mr.Suveer Dewan, Advocate
for respondent No.3.

INDERJIT SINGH, J.

Both the above-mentioned FAOs are taken up together for disposal being arisen from same Award passed in two claim petitions.

Both the above-mentioned FAOs have been filed by the claimants-injured against respondents Sukhdev Singh, driver, Vinay Kumar, owner and National Insurance Company Ltd., Insurer of truck

bearing registration No.PCF-9947 (offending truck), challenging the impugned Awards dated 11.12.2001 passed by learned Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'Tribunal') for enhancement of the compensation.

The brief facts of the case are that claimants-injured filed the claim petitions against above-said respondents under Section 166 of the Motor Vehicles Act, asking for compensation regarding the injuries sustained by them in the motor vehicular accident on 10.08.1996 at 10.30 A.M. As per the case of the claimants, Smt.Bhateri Devi along with her husband Phul Kumar was standing in katcha portion of the road near Brahm Kumari Ashram, Barwala and she was having her minor son Sunil of five years in her lap. Then a truck bearing registration No.PCF-9947 being driven by respondent-driver, came on the wrong side and struck against Bhateri and Sunil, whereas Phul Kumar narrowly escaped. Thereafter, they were shifted to Janta Hospital, Barwala.

Notice of motion was issued in both the appeals and learned counsel for respondent No.3 appeared and contested the appeals. Service upon respondent No.1 was dispensed with and none appeared on behalf of respondent No.2 to contest the appeals.

Learned counsel for both the appellants-claimants argued that the amount of compensation granted by the Tribunal is liable to be enhanced.

On the other hand, learned counsel for respondent No.3 argued that adequate compensation has been awarded by the

Tribunal and the appeals should be dismissed.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that as regarding claim petition filed by Sunil Kumar, he was 5 years old. The permanent disability, as examined by the Board of Doctors Ex.R1 and as per the evidence produced by the respondents, was only 2%. The Tribunal believing this evidence regarding permanent disability of 2%, awarded ₹25,000/- on account of pain and sufferings and disability. In my view this compensation in no way can be held as inadequate keeping in view the permanent disability of 2%. ₹5,100/-, charged by the doctor and ₹2,540/- on account of expenditure incurred on his treatment, were also awarded. ₹10,000/- was awarded on account of attendant charges, special diet and transportation charges etc. The accident has taken place in the year 1996 and Sunil was 5 years old and the permanent disability was only 2% as per Ex.R1. Therefore, the total compensation of ₹42,640/- granted by the Tribunal in this case, in no way, can be held as inadequate. Therefore, it is not liable to be enhanced and the appeal filed by Sunil Kumar i.e. FAO No.1514 of 2002 stands dismissed.

As regarding the case of Bhateri Devi, as per claimant's evidence, the permanent disability was 100% whereas, as per the evidence produced by the respondents, the permanent disability was assessed at 70% as per permanent disability certificate Ex.R2 and the Tribunal has disbelieved this evidence. RW-1 Dr.Rakesh Gupta has

appeared before the Tribunal and deposed that Bhateri Devi was examined by Board of Doctors including himself. As per the evidence, both the claimants were referred to PGIMS, Rohtak for re-medical examination for determining the disability and then the disability was found as 79%. As per the evidence, after the accident, leg of Bhateri Devi was amputated and she cannot do labour job. As per the claim petition, Bhateri Devi was about 30 years of age and was earning ₹2000/- per month. The Tribunal only granted ₹50,000/- on the basis of permanent disability. ₹31,150/- were granted on the ground of special diet, transportation charges, attendant charges, expenditure incurred on treatment and total compensation was awarded at ₹81,150/-.

Keeping in view the permanent disability of about 80% of Bhateri Devi and in view of amputation of her leg, the compensation of ₹50,000/- on account of permanent disability is less. No amount has been granted for pain and sufferings. The Tribunal has also not assessed future loss of income by applying the multiplier in this case.

In view of the above discussion, the compensation granted to Bhateri Devi is liable to be enhanced as under:-

Income as claimed in petition	₹2,000/- per month i.e. ₹2000x12 = ₹24,000/- per annum
Permanent Disability of 80%	₹24,000/- x 80/100 = ₹19,200/-
Multiplier of 17 for future loss	₹19,200/- x 17 = ₹3,26,400/-
Medical expenses	₹21,150/-
Special diet, attendant charges, transportation charges	₹10,000/-
Pain and sufferings	₹10,000/-
Total compensation	₹3,67,550/-

In view of above, the appellant-claimant Bhateri Devi is entitled to total compensation of ₹3,67,550/- along with the same interest, on the enhanced amount, as awarded by the Tribunal from the date of filing of the claim petition till realization.

Therefore, finding merit in FAO No.1513 of 2002, the same is allowed accordingly.

July 14, 2015
Vgulati

(INDERJIT SINGH)
JUDGE