

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2255 of 2004 (O&M)
Date of Decision:22.09.2015

Ram Chander

....Appellant

Versus

Lakhi Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. R.D. Yadav, Advocate for the appellant.

Mr. Vinod Chaudhari, Advocate for respondent No.4-
New India Assurance Company Ltd.

NAVITA SINGH, J.

1. The Motor Accident Claims Tribunal, Rewari (Tribunal for short) passed an award on 03.02.2004 granting compensation to the tune of Rs.2,40,000/- to the appellant. Feeling dissatisfied with the amount, the appellant preferred this appeal.

2. A motor vehicle accident occurred on 13.02.1998 in which the appellant was injured while travelling in a three-wheeler from Bhiwari to Dharuhera. A jeep bearing No.DL-4CD-8385 came from the opposite side which was driven in a rash and negligent manner, hit the three-wheeler. Some persons including the appellant sustained injuries while one Jasbir Singh died on way to the hospital.

3. Counsel for the appellant argued that there was permanent disability to the extent of 21% but nothing was awarded on that count. The appellant was driver by profession but on account of the disability he was not able to drive. He sustained injuries on his feet and head. He was subjected to surgery five times and remained bed ridden for about 20 months. Loss of income during the time

of treatment was calculated at only Rs.2000/- per month and also an amount of Rs.10,000/- was given for special diet etc.

4. Counsel for the Insurance Company contended that the accident took place on 13.02.1998 and according to the price index prevailing at that time the compensation was adequately given. Regarding disability, it was submitted that 21% permanent disability was qua the particular limb and not qua the whole body.

5. So far as the disability is concerned, the Tribunal observed that though its nature was not such as would render the appellant incapable of doing all sorts of work, but it was all the same observed that he would definitely not live a normal life and also could not drive any vehicle though driving was of his profession. Therefore, it could be said that the appellant was rendered practically disabled for the work he could do and earn from. He was, thus, liable to be compensated for that part. Regarding the disability, an amount of Rs.50,000/- is awarded over and above the amount already awarded for loss of expectation of life and for hardship and discomfort.

6. Regarding income, it cannot be said that the assessment was on the lower side because the year of accident has to be taken into account for that. So far as the special diet is concerned, an amount of Rs.10,000/- was awarded which was also sufficient. For special attendant, the amount which the appellant would have spent 17 years ago is to be seen and amount of Rs.10,000/- should suffice on that count as well, and is so awarded. Regarding of future income, nothing was separately awarded but it was mentioned for the trouble likely to be faced by him in future life and for pain and suffering, an amount of Rs.30,000/- was being given. The appellant would have worked as a driver if he had not been injured and keeping in view the rise in the price index, he would have earned better over the years. He was, therefore, liable to be compensated for loss of

future income to a reasonable extent because even if he would work after recovery. It could be only for bare survival. In view of his physical condition, an amount of Rs.1,00,000/- is awarded under that head. Therefore, the total amount of compensation is enhanced by Rs.1,60,000/- in addition to the amount awarded by the Tribunal.

7. The appeal is disposed of in the above terms.

**(NAVITA SINGH)
JUDGE**

22.09.2015
Ishwar

Whether to be referred to reporter: Yes