

RAJ KUMAR
10/8/2015 14:43

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.113 OF 2005 (O&M)
DATE OF DECISION : 10th AUGUST, 2015

Harbhajan Singh Jandu

.... Appellant

Versus

M/s. Laxmi Castings & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. Vivek Sharma, Advocate for
Mr. Gurcharan Dass, Advocate for the appellant.

Mr. Vikas Mohan Gupta, Advocate for respondent No.3-
United India Insurance.

None for remaining respondents.

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SURINDER GUPTA, J. (ORAL)

Heard.

Claimant filed application under Section 166 of Motor Vehicles Act claiming compensation for the injuries received by him in the incident that took place on 10.02.1993. As per the claimant-appellant he was standing in front of the shop of Bhandari Tailors and having a chat with Rajinder Kumar Bhandari. The car of respondent No.2 bearing registration No.PB-10B-0121, being driven in a rash and negligent manner by respondent No.2, hit the claimant-appellant causing him fracture of right leg and serious damage to right feet and knee of right leg. Respondent No.2 took the claimant to the Dayanand Medical College and Hospital, Ludhiana where he remained admitted for one day.

The tribunal allowed the compensation of ₹40,000/- which include ₹10,000/- for pain and suffering, ₹10,000/- for medicines, ₹5,000/- for special diet, 5,000/- towards conveyance charges and ₹10,000/- towards loss of income.

Learned counsel for the appellant has argued that the appellant had placed on file disability certificate Ex.AW-4/A, disclosing the disability suffered by the petitioner as 60%. The Tribunal has not taken into consideration the disability certificate and no compensation was allowed on this score. He further argued that the Tribunal has also not given any compensation towards the loss of future prospects and income.

Learned counsel for respondent No.3-Insurance Company argues that the Tribunal has taken into account the entire evidence relating to the disability certificate. In fact, no fracture injury was received by the petitioner in the accident that took place on 10.02.1993. The claimant-appellant had admitted that he met with second accident in the year 1995. There was no evidence that this disability was suffered due to the injuries received by him in 1993.

On perusal of the paper book, I find that the tribunal has looked into the evidence on file and observed that the petitioner had remained admitted in the hospital for one day and in his discharge card Ex.AW3/A issued on 11.02.1993, there is no mention of any fracture or any injury suffered by the claimant, who was given treatment for seven days and was advised follow up treatment. No evidence was produced to show that this disability as alleged to have been suffered by the claimant, was suffered in the accident that took place on 10.02.1993. For want of

any evidence in this regard the Tribunal has committed no error of law or fact while declining the compensation for the disability, as mentioned in the disability certificate Ex. AW-4/A issued in the year 1999. As the appellant has not suffered any disability due to injury caused in accident that took place on 10.02.1993, the Tribunal has rightly declined the compensation under the heads of loss of future prospects and loss of income.

In view of the facts and circumstances discussed above, I find no reason to interfere with the award passed by the Tribunal. This petition has no merits. Dismissed.

10th August, 2015
'raj'

(SURINDER GUPTA)
JUDGE