IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6231 of 2012 (O&M)
Date of Decision: February 05, 2015

Bajaj Allianz General Insurance Co. Ltd.

...Appellant(s)

Versus

Jeet Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes

Present: Mr. N.K. Bibyan, Advocate
for Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. Dheeraj Narula, Advocate
for respondent no.1.

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ANITA CHAUDHRY, J.

1. This appeal is by the insurance company aggrieved by the award dated 21.09.2012, passed by the Motor Accident Claims Tribunal, Sirsa (here-in-after referred to as the Tribunal).

2. The ground raised by in this appeal is regarding the quantum of compensation determined. Labh Singh and his father Jit Singh met with an accident on 08.04.2009. Two claim petitions were filed seeking compensation for the injuries. The Tribunal recorded a finding against the driver.

On the issue of compensation, the Tribunal noted the disability suffered by the claimants and awarded separate compensation to both the claimants.

3. Since we are concerned only with the claim filed by Jit Singh, it would be relevant to refer to his facts alone.

4. The submission made on behalf of the appellant was that the Tribunal had taken the income of Jit Singh to be Rs.5,400/- per month but there was no evidence and in the cross-examination, he has admitted that he was getting old age pension and his age was wrongly shown. It was urged that the Tribunal had taken the entire disability to calculate the loss and functional disability should have been assessed.

5. The submission on the other hand was that Jit Singh was an agriculturist and with 60% disability on the leg, he had become totally disabled and was not able to work in the fields as it had affected his work and no change should be made. It was urged that the Tribunal had failed to allow compensation for attendant charges, transportation, and special diet which should be added. It was urged that the appeal filed by ***Bajaj Allianz Insurance Co. Ltd. Vs. Labh Singh and others*** bearing FAO No.6122 of 2012 was withdrawn by them. Reliance was placed upon ***Mohan Soni Vs. Ram Avtar Tomar and others 2012 ACJ 583***.

6. Refuting the argument, it was submitted that no appeal has been filed by the claimants, therefore, the question of allowing any further claim would not be justified.

It was urged that if the claimants were dis-satisfied, they could have filed cross-objections or an appeal.

7. Jit Singh had suffered disability to the extent of 60% of one leg. The disability certificate Ex.PW4/A shows that there was stiffness in the right hip and right knee and the disability was stated to be 30% each. This disability related to the right leg and not the entire body. The Tribunal had failed to assess the functional disability, therefore, the compensation shall have to be re-calculated. I would make no change so far as the income is concerned, though it was on the higher side. I also find that age given by the claimant did not appear to be correct. Jit Singh had stated that he was 55 years old but at the same time in the cross-examination, he admitted that he was getting old age pension. In that case, he would certainly be over 60 years. The Tribunal had taken the age to be 57 years and had applied the multiplier of 8. Since the age is disputed keeping the claimants admission into view, I would make no change in the multiplier as well. The functional disability is taken to be 40%, the loss per month would be Rs.2,160/- and the annual loss per month would be Rs.2,160/- X 12 = Rs.25,920/-. Applying the multiplier of 8, the compensation would come to Rs.2,07,360/- as against Rs.5,18,400/- allowed by the Tribunal. The claimant is entitled to a sum of Rs.41,814/- and Rs.5,000/- already awarded by the Tribunal. No further addition in the compensation can be made in the absence of any appeal or cross-objections by the

claimant. The award passed by the Tribunal is modified to the extent mentioned above. If the amount has been paid, the same shall be repaid to the insurance company within two months by the claimants.

(ANITA CHAUDHRY)
JUDGE

February 05, 2015
sunil