

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 772 of 2015 (O&M)
Date of decision 01.05. 2015.

National Insurance Company Ltd

..... Appellant.

versus

Vijay Kumar and others

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers 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 : Shri Ravinder Arora, Advocate for the appellant.

K.C.PURI, J.

This is an appeal directed by National Insurance Company Ltd against the Award dated 13.05.2014 passed by Shri Atul Kasana, Motor Accident Claims Tribunal, Chandigarh vide which claim petition filed by the claimants/respondents was allowed and a sum of Rs.7,07,697/- were awarded to the claimants on account of injuries sustained by him in a motor vehicular accident.

2. Briefly stated that on the intervening night of 5/6.02.2012 claimant was going from Nayagaon to his house in Sector 7, Chandigarh while sitting on the pillion seat of a motor cycle bearing registration

No.HR-25-C-3122 being driven by respondent No.1 in a rash and negligent manner and at about 2.00am they reached near the chowk of Sectors 4,5, 8 and 9 Chandigarh the motorcycle went out of control on account of its fast speed and it struck against the divider, as a result of which the claimant and respondent no.1 fell down and sustained injuries. He was taken to general hospital sector 16, Chandigarh from where he was referred to PGI. The accident took place due to his rash and negligent driving of motorcycle bearing No.HR-25-C-3122 by respondent No.1. The claimant is claiming compensation to the tune of Rs.50lacs on various counts and prayed that compensation be awarded along with interest @ 12% per annum from the date of petition till realization.

3. Upon notice, respondents No.1 and 2 did not appear despite their effective service and were proceeded against ex-parte vide order dated 5.9.2012 and 2.5.2012 respectively.

4. Respondent No. 3 filed written statement alleging that claim petition is vague and has been filed in contravention of the provision of Motor Vehicle Act. It is alleged that driver of the motorcycle in question was not holding a valid and effective driving licence at the time of accident, therefore, the answering respondent is not liable to indemnify the claim. Denying other averments, respondents prayed for dismissal of the claim petition.

5. From the pleadings of the parties, following issues and additional issue were framed :-

- (1) Whether the claimant sustained injuries in a road accident which took place on the intervening night of 5/6.2.2012

- due to rash and negligent driving of motorcycle No.HR-25-C-3122 by its driver-respondent No.1?OPP
- (2) Whether the claimant is entitled to any amount as compensation, if so, how much and from whom ? OPP
- (3) Whether respondent No.1 was not holding a valid licence at the time of accident, if so, its effect ?OPR-3
- (4) Relief.

6. The Tribunal has accepted the claim petition vide Award dated 13.05.2014 as aforesaid.

7. Feeling dissatisfied with the aforesaid award, the Insurance Company has directed the present appeal.

8. Learned counsel for the appellant has challenged the awarding of amount of Rs.3,65,212/- regarding future earnings only. The Tribunal has allowed the amount of compensation as under :-

1	Hospitalization charges, treatment expenses and expenses incurred on medicines	Rs.1,79,985/-
2	Special diet and attendant charges	Rs.7,500/-
3	Transport charges	Rs.5000/-
4	Pain and sufferings	Rs.1,00,000/-
5	Loss of future earnings	Rs.3,65,212/-
6	Loss of amenities and marriage prospects	Rs.50,000.-
7	Total	Rs.7,07,697/-

9. However, the amounts awarded under other heads has not been challenged.

10. Learned counsel for the appellant has submitted that the disability was to the extent of 20% that cannot be taken as a loss of future income.

11. I have considered the said submission but do not find any force in that submission.

12. Dr.Aditya Aggarwal (PW- 2) has proved the disability certificate Ex.P-7 wherein it is mentioned that claimant has suffered 20% in relation to right upper limb, left lower limb and spine. It has also come in his testimony that said disability will hamper him in discharging of his duties while standing for prolonged duration effectively. The claimant remained admitted in PGI from 6.2.2012 to 20.2.2012. The claimant as per medical record underwent surgery twice i.e. for fracture of L4 vertebra and neck femur. The doctor has further stated that claimant will also have problem due to spinal injury in the form of back pain and may not be able to walk for a longer duration and the disability is not likely to improve. So, an amount of Rs.3,65,212/- on account of loss of future earnings cannot be said to be on higher side.

13. No other point has been urged.

14. In view of the above discussion, the present appeal is without any merit and the same stands dismissed.

15. A copy of this judgment be sent to the Tribunal for strict compliance.

(K.C.PURI)
JUDGE

May 01, 2015

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