

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2382 of 1998 (O&M)
Date of Decision : 02.12.2016

National Insurance Company Ltd.Appellant

Versus

Jagtar Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Manmohan, Advocate
for Mr. Suman Jain, Advocate
for the appellant.

Surinder Gupta, J.

This is appeal filed by National Insurance Company Ltd. insurer of scooter no. CHC-1362 (later referred to as ‘the offending vehicle’) involved in the accident, which took place on 05.11.1996 resulting in injuries to respondent no. 1-Jagtar Singh. The Tribunal allowed claim petition filed by Jagtar Singh under Section 166 read with Section 163-A of the Motor Vehicles Act and awarded him compensation of ₹3,56,000/-, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Expenses for medical care, hospitalization charges, special diet and transportation charges	₹15000
(ii)	Loss of income on account of 35% disability	₹336000
(iii)	Pain and suffering and non-pecuniary damages	₹5000
<i>Total</i>		₹356000

2. Learned counsel for the appellant has argued that the Tribunal

awarded medical expenses to the tune of ₹15,000/- despite the fact that medical bills of only ₹8,312/- were produced. He has further argued that disability certificate was issued to claimant by a private doctor. The Tribunal took income of claimant as ₹60,000/- per annum despite evidence on file that in the previous year he was having income of ₹30,000/- per annum.

3. The original file of this appeal as well as record of the Tribunal has been lost in fire incident in the concerned branch in January, 2011. I have gone through the paper-book which was reconstructed and perused the documents supplied by learned counsel for the appellant.

4. Perusal of award shows that there was shortening of leg of claimant by 1½ inch and the doctor who issued him disability certificate (Ex. P-2) described his total disability as 35%. Besides other disabilities, shortening of leg by 1½ inch certainly affect future prospects of claimant, who was working as agent of finance and investment company. It is also clear on perusal of award that claimant remained admitted in Sood Plastic Surgery Clinic, Patiala from 05.11.1996 to 08.11.1996 and plaster was applied on his right leg. Thereafter, he took the treatment from Dr. Mann of Ambala City. A person, who suffers fracture, has to remain on bed for six to twelve weeks before his fracture reunite. In the case of claimant, fracture resulted in shortening of his leg by 1½ inch. During the period he remained on bed, claimant suffered loss of income. The Tribunal allowed lump sum of ₹15,000/- towards medical care, hospitalization charges, special diet and transportation charges etc. Bills of ₹8,312/- were produced which did not include amount paid to Dr. Mann and charges of Sood Plastic Surgery Clinic, Patiala. In case, the Tribunal had calculated amount of

compensation, which could be awarded towards expenses for hospitalization, medical care, transportation charges from the place of accident to Patiala and back and then to Ambala, for going to clinic of Dr. Mann, special diet etc. it would have counted for much more than ₹15,000/-. Argument of learned counsel for the appellant that amount of compensation of ₹15,000/- awarded by the Tribunal to claimant on above counts is on higher side carries no value.

5. It is proved on file that claimant was having income of ₹80,000/- per annum in the previous year i.e. 1994-95. In the year 1995-96 he was having income of ₹30,339/-. The Tribunal took average income of claimant as ₹60,000/- per annum and awarded compensation by applying multiplier method. A sum of ₹5000/- was allowed towards pain and suffering and for non-pecuniary damages. It is nowhere the case of appellant that Dr. Mann, who issued disability certificate to claimant, was not competent to issue the disability certificate. He was qualified M.S. orthopaedic doctor and his hospital was also an orthopaedic hospital, as such, the disability certificate issued by Dr. Mann cannot be doubted. The Tribunal besides compensation awarded towards loss of income also allowed a sum of ₹20,000/- towards medical expenses, hospitalization, special diet, transportation charges, pain and suffering and non-pecuniary damages. In case, the Tribunal had awarded compensation under each head separately and had also allowed compensation towards attendant charges, loss of income, future medical treatment, expenses for specially designed shoes etc. for claimant, amount of compensation of ₹3,56,000/- awarded to claimant cannot be termed to be on higher side. A person, who has suffered shortening of his leg, stiffness, deformity because of fracture injury and has

to suffer throughout the life not only in his profession but his future prospects are also effected. In this case, claimant was in a job which was a sort of touring job. As an agent of finance and investment company he had to contact so many persons to encourage and persuade them to invest in his company.

6. Keeping in view all the facts and circumstances of the case, I do not find that compensation awarded to claimant is on higher side. Award by Tribunal calls for no interference and this appeal has no merit.

Dismissed.

December 02, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No