

In the High Court of Punjab and Haryana at Chandigarh

FAO No.5240 of 2004 (O&M)

Date of decision: March 16, 2016

Surinder Singh

..... Appellant

Versus

Manjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Vinod Gupta, Advocate for the appellant.

Mr. Ashwani Talwar, Advocate for respondent No.3.

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?*

AJAY TEWARI, J. (Oral)

This appeal has been filed by the claimant for the enhancement of compensation and to modify the award dated 02.06.2004 on account of injuries suffered by the appellant in a motor vehicle accident.

Brief facts are that on 29.09.1998 at about 5.30 p.m. the appellant was coming from Amritsar to his residence i.e. 41, Guru Hargobind Avenue, Amritsar on a bicycle. When he reached near Air Force quarters at Ajnala Road a mini bus bearing No.PAB 1226 came from behind being driven by the first respondent Manjit Singh rashly and negligently at a high speed without blowing any horn and under the

Influence of liquor. Front door of the bus was open and the passengers

were hanging in the said door. Appellant was paddling his bicycle on the extreme left side kacha portion of the road. However, the said door of the bus hit the appellant on right side of his hip. As a consequence, he received multiple injuries and fracture of pelvis involving right acetabulum. His cycle was also badly damaged. After causing the occurrence, respondent ran away from the spot along with bus. Appellant with the help of other reached the military hospital where he was admitted and was discharged on 01.10.1998.

The Tribunal has awarded an amount of ₹89,055/- along with interest @ 9% per annum.

Learned counsel for the appellant has argued that the Tribunal has wrongly applied the multiplier of 08 whereas as per the case of **Sarla Verma Vs. Delhi Transport Corporation, (2009) 6 SCC 121**, the multiplier of 11 has to be applied.

Learned counsel for the Insurance Company has accepted this.

Learned counsel for the appellant has further argued that on account of pain and suffering, special diet, attendant, transportation and enjoyment of life only ₹5,000/- has been awarded.

Learned counsel for the appellant has further argued that the Tribunal has erred in absolving the Insurance Company on the ground that since the insured had died during the pendency and his legal representatives are not brought on the record, the Insurance Company was discharged. He has placed reliance upon Section 155 of the Motor

Vehicles Act, 1988. The said Section reads as under:

“155. Effect of death on certain causes of action.— Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925 (39 of 1925), the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.”

In the circumstances, this argument has to be upheld and it has to be stated that the compensation amount has to be paid by the Insurance Company.

Keeping in view the entire conspectus of fact, I hold that multiplier of 11 has to be applied. Further, I award ₹10,000/- for pain and suffering, ₹10,000/- for loss of enjoyment of life and ₹15,000/- for attendant, special diet and transportation charges. The enhanced amount shall be paid along with interest @ 8% from the date of filing of the claim petition till the date of realization. However, it is made clear that the management and apportionment of the compensation shall be in the same manner as indicated in the award of the Tribunal.

The appeal is disposed of in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending Civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

March 16, 2016