IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2859 of 2007
Date of Decision. 21.01.2016

Benny P. Varghese ....Appellant

Vs.

Bhajan Singh and others ....Respondents

2. **FAO No.2623 of 2007**

New India Assurance Company Limited ....Appellant

Vs.

Benny P. Varghese and others ....Respondents

Present: Mr. S.N. Trikha, Advocate
for the appellant in FAO No.2859 of 2007 and
for the respondent No.1 in FAO No.2623 of 2007.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate
for the United India Insurance Company Ltd-respondent No.6.

Mr. Jagjit Singh, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant in FAO No.2623 of 2007 and
for respondent No.3 in FAO No.2859 of 2007.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J.

1. Both these appeals arise out of the same award of the Motor Accident Claims Tribunal. FAO No.2623 of 2007 is at the instance of the insurance company challenging the award as excessive while FAO No.2623 of 2007 is by the claimant who has sought for enhancement of compensation.

2. The claimant was a Corporal Engineer at the Air Force Station Chandigarh. On account of the accident, he had suffered injuries that has confined him to bed. He had a fracture of vertebral bone and suffered compression fracture at D12 and hyperintense lesions at D4, D5, D10, D11 and D12. There was also partial disruption of the fibre tract at D4-D5 and complete disruption of the fibre tract at D10, D11 and D12. On account of his serious disability and confining to bed, he had been examined through video conferencing from his resident by the Tribunal. While assessing the compensation, the Tribunal took the gross income stated as ₹8600/- per month, made a prospect of increase and allowed for loss of earning, taking the loss of earning at 100%. It also provided ₹1,50,000/- towards pain and suffering, ₹1,50,000/- towards disability and ₹1,50,000/- loss of expectancy in life, ₹1,50,000/- for loss of prospect of marriage, ₹2,16,667 for medical expenses and ₹5,40,000/- for future attendant and medical charges. The total compensation awarded was ₹24,37,000/-.

3. The insurance company is on appeal to state that after all the deductions which were taken to him, salary of ₹6500/- must be taken as his income and even a prospect of increase ought not to have been provided for. The non-pecuniary heads have been granted at large sums and they would require to be reconsidered.

4. The claimant was born on 26.05.1969 and the accident had taken place on 11.11.2000. The assessment to his loss of income will, therefore, be paid on the basis that he was 31 years of age at the time of accident. The salary which was stated to be ₹8600/- per month at that time would require to be considered with a sure prospect of

increase at not less than 50% and I will, therefore, make the average income at ₹12,900/- per month and adopt a multiplier of 16 suitable to the age of the injured and provide for ₹24,76,800/- towards loss of earning capacity. I will retain the amounts as already assessed by the Tribunal for pain and suffering, loss of amenities, reduction in life expectancy and loss of prospect of marriage at ₹1,50,000/- each. I will also retain the medical expenses provided by the Tribunal at ₹2,16,667/-. It was in evidence that he would require an attendant for rest of his life and the future medical expenses would also be considerable. It is stated that a diaper is changed for him every day for urethral incontinence. I will take the average expenditure for an attendant on the claimant to be ₹2000/- per month and then apply a multiplier of 16 to provide for attendant charges at ₹3,84,000/- The medical bills have been filed to show the expenditure incurred subsequent to the disposal of the petition. That total up to ₹1,10,525/- upto April 2013. Taking note of the additional expenses so far incurred, I will provide for ₹5 lacs as future medical expenses. The total compensation payable shall be ₹41,77,467/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @7.5% from the date of petition till the date of payment.

5. The award passed by the Tribunal stands modified and the appeal filed by the claimant is allowed to the above extent. The appeal filed by the insurance company is dismissed.

(K. KANNAN)
JUDGE

January 21, 2016
Pankaj*