

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 18.12.2017

FAO No. 2359 of 1996(O&M)

Arun Kumar

---Appellant

versus

Union of India and others

---Respondents

FAO No. 2361 of 1996(O&M)

Vikas Sachdev

---Appellant

versus

Union of India and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Ms. Amandeep Kaur, Advocate
for Mr. Janak Raj Arora, Advocate
for the appellant**

**Mr. Shivjot Dhir, Advocate,
Standing counsel for UOI**

Rekha Mittal, J.

This order will dispose of FAO Nos. 2359 and 2361 of 1996 as these have emerged out of the same award dated 1.3.1996 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short “the Tribunal”).

FAO No. 2359 of 1996

The Tribunal has assessed compensation to the tune of Rs. 27,000/-, detailed hereunder:-

Expenses on medical treatment	Rs. 2,000/-
Pain and sufferings and disability	Rs. 25,000/-

Counsel for the appellant has submitted that Arun Kumar injured-victim, aged about 19 years and student of +2 suffered permanent disability to the extent of 20%, therefore, compensation awarded by the Tribunal is on lower side and needs to be enhanced. It is further argued that the Tribunal has not awarded compensation for loss of matrimonial prospects.

Dr. Sita Ram was examined and deposed that Arun Kumar received injuries on the posterior dislocation of the right hip with fracture of the acetabulum and dislocation was reduced under anesthesia. Dr. Vijay Goni was examined to prove disability certificate Ex. P2 whereby disability suffered by the victim has been assessed to the extent of 20%. However, it remains a fact that the injured was admitted in PGI having sustained injuries on right hip joint and discharged on the same day. The injured-victim deposed that he could not walk properly and ride a cycle.

Unfortunately, records have been burnt in a fire incident. Counsel for the parties are not in possession of testimonies of Dr. Sita Ram, Dr. Vijay Goni, injured Arun Kumar and disability certificate Ex. P-2 in order to know as to what type of disability has been suffered by the injured. The injured did not produce on record the medical bills etc. in order to know the medicines/treatment prescribed for his injury. The Tribunal has awarded an amount of Rs. 2000/- by holding that even if the treatment is given free of cost in the hospital, awarding an amount of Rs. 2000/- will be justified. Taking into consideration the materials on record in the light of observations recorded in para 15 of the award, in my considered opinion, interests of justice would be served if the claimant is allowed another sum of Rs. 20,000/- in respect of loss of amenities of life and loss of

matrimonial prospects. The additional amount shall be payable with interest at the rate of 7.5% per annum from the date of petition till realization.

FAO No. 2361 of 1996

With regard to injuries sustained by Vikas Sachdev, the Tribunal has awarded Rs. 27,000/- namely Rs. 2000/- for medical expenses and Rs. 25,000/- qua disability etc. as per provisions of Section 140 of the Motor Vehicles Act, 1988 (in short “the Act”).

Dr. Sita Ram was examined and deposed that the injured sustained a compound fracture of both bones of right leg and he was operated upon and close reduction of fracture was done. As per disability certificate Ex. P-2, he suffered permanent disability to the extent of 6%.

Counsel for the appellant has submitted that the Tribunal has accepted statement of the injured that he remained under plaster for six months but no compensation has been awarded qua loss of earning during the period of treatment and recovery. It is urged that the Tribunal has not allowed compensation for loss to marriage prospects and services of an attendant.

As has been noticed hereinbefore, records are not available having destroyed in a fire incident. Counsel for the parties have expressed their inability to supply copies of statements of the witnesses and disability certificate Ex. P-2. There is no dispute that the injured remained under plaster for six months. There is nothing on record suggestive of the fact that the injured was doing any job which could be a source of earning for him. He was 19 years of age at that time. There is also no evidence that because of sustaining of injury and confinement to bed due to plaster, he suffered any loss in his educational career. It is not very clear as to what type of

disability to the extent of 6% has been suffered by the injured. Nevertheless, in view of observations recorded by the Tribunal in para 16 of the award, interest of justice would be served if the claimant is awarded an additional amount of Rs. 15,000/- towards services of an attendant and loss of matrimonial prospects. The additional amount shall be payable with interest at the rate of 7.5% per annum from the date of petition till realization.

For the foregoing reasons, the appeals are partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

18.12.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No