

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 1359 of 2002 (O&M)
Date of Decision: July 19, 2017

Sher Singh

..Appellant(s)

Versus

Shamsher Singh @ Suman and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Arun Yadav, Advocate
for the appellant.

Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate
for respondent no.2.

Mr. Mukesh Kaushik, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

This is the claimants appeal seeking enhancement in the award dated 31.07.2001, passed by the Motor Accident Claims Tribunal, Rewari.

Claimant-Sher Singh had suffered injuries in an accident which occurred on 27.07.1999. It was claimed that he was working as a waiter and was earning Rs.3,500/- per month. He was hospitalized for 8 days. It was claimed that he had suffered a disability of 25%. Bills of Rs.1,700/- were placed on record. Some bills to the tune of

Rs.4,200/- were also submitted to show that he had spent that amount for transportation. The claimant failed to examine the Medical Officer to prove the disability. The certificate was introduced in evidence in the statement of the claimant. The MLR referred to 4 injuries. It was claimed that he had spent Rs.50,000/- on the treatment and remained admitted in the hospital up to 04.08.1999. The Tribunal allowed Rs.1,700/- i.e. the actual amount of medical bills, Rs.4,200/- for transportation and a sum of Rs.8,700/- for the special diet. It also allowed a sum of Rs.76,800/- for the disability by applying the multiplier method. The claimant was allowed a total compensation of Rs.91,500/- with interest @ 9%.

The record had been received.

I have heard both the sides. The counsel for the appellant refers to the statement of the claimant and urges that the amount allowed for the disability is on the lower side and an addition in the income should have been made as the claimant would suffer the rest of his life and the income would have grown as the years go by. The counsel further submits that the multiplier applied should have been 18 and more amount should have been allowed for pain and suffering.

The counsel appearing for the insurance company urges that no Medical Officer had been examined to prove the disability and the hospitalization is of 8 days and the Tribunal had allowed all the bills which had been submitted by the claimant including bills which are on plain paper.

A number of bills were submitted to show that the claimant had travelled from his village to Safdarjang Hospital, Delhi. A sum of Rs.1,000/- was charged for each trip. A number of visits were made for which the claimant has been compensated. The claimant was also allowed reimbursement for the juice for two months as claimed vide receipts Ex.P-21 to Ex.P-22.

Counsel for the appellant had urged that the amount allowed for the disability was on the lower side but I find that the disability certificate had not been proved. No Medical Officer had been examined. No opportunity was given to the respondents to cross-examine. It is settled that the disability certificate cannot be taken into account till the Medical Officer who had examined the injured is examined in the Court. The claimant has already been allowed a higher amount. As there is no appeal by the insurance company, therefore, I do not propose to make any deduction.

The appeal is dismissed.

July 19, 2017

sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No