

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2299 of 2001
Date of Decision: 22.08.2017

Vijay Kumar

...Appellant

Vs.

Bhupinder Singh & others

...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Abhimanyu Kalsy, Advocate,
for the appellant.

Mr. Suvir Dewan, Advocate,
for respondent No.3.

RAJIV NARAIN RAINA, J. (Oral)

1. Having heard Mr. Abhimanyu Kalsy, Advocate for the appellant and Mr. Suvir Dewan, Advocate for the Insurance Company and having perused the file with their assistance, this appeal is partially allowed and the award of the Motor Accident Claims Tribunal is modified by enhancing compensation as indicated below:-

(a). The age of the injured at the time of suffering permanent injuries in the motor accident was 23 years. The Tribunal has applied the multiplier of 16 whereas it should be 18. It is ordered accordingly and the award will be suitably re-adjusted.

(b). The appellant had suffered grievous head injuries which left permanent partial disability of 25%. This statement is disputed by the appellant on the basis of statements made by PW4 that Head of the Department of Phychiatrics, CMC & Hospital, Ludhiana had given the medical opinion as follows:-

“14. PW4 Dr. R.S. Deswal, Professor and Head of the Deptt. of Phychiatrics, CMC & Hospital Ludhiana, had

deposed that the claimant was brought to his department on 30.7.98. He has deposed that as per the records, the claimant tried to commit suicide on 29.7.98 by jumping off the factory roof. He was thoroughly examined by him and his associate doctors and was found to suffer from a serious psychiatric illness formally called schizophreniform disorder. He was given electric shocks on his head for his treatment. After that, he has been visiting the OPD of the psychiatric department of the CMC & Hospital on regular basis and lastly visited the same on 19.7.2000. He is on regular medicine for his treatment. He has deposed that this disease and resulting mental disability has resulted from the accidental head injury, which the claimant received. He has also deposed that this is a permanent disability. The claimant needs constant supervision from the family members, even for his minimal performance. The medicine for the claimant is to continue for a long term, may be for life. He has proved copy of the bed head ticket of the claimant Ex. PW4/3 and certificates issued by him on 13.8.98 and 13.8.99 Ex.PW4/1 & 4/2 respectively, in which it is mentioned that the claimant was admitted in the CMC & Hospital, Ludhiana for the aforesaid disorder from 30.07.97 to 13.8.98 and that the head injury suffered by him in September, 1997 could have been a factor in the appearance of the schizophreniform disorder in the claimant. It is also mentioned therein that the disease may recur to the claimant in future also.”

- (c). I have considered this aspect and feel that some enhancement in the compensation would be required in view of onset of schizophreniform as a result of the accident, which in any case, will require long treatment incurring recurring expenses on permanent basis. Therefore, for permanent mental shock and resulting in permanent abnormality/behaviour the appellant deserves to be awarded an amount of ₹ 2.5 lakhs which will include future medical expenses. It is ordered accordingly.

(d). The accident took place on September 22, 1997. The income of the appellant was assessed at ₹ 1,500/- per month and appears to be on lower side and deserves to be increased to at least ₹ 3,000/- since the appellant was employed as a Flat Worker in a factory known as New Era Hosiery Mills, Ludhiana. Even though there is no direct proof of income, I feel it is reasonable to infer such a conclusion and enhance the monthly income to a living wage with standard deduction. It is ordered accordingly.

(e). Disability percentage has to be increased from 25% to at least 50% in view of onset of schizophrenia and as a result of the accident and head injury with future loss of income works out to ₹ 3,24,000/- resulting from increased income to presumptive ₹ 3,000/- per month.

(f). Pain and suffering deserves to be increased from ₹ 20,000/- to ₹ 50,000 post accident and treatment by electric shocks. It is so ordered.

(g). The award of interest @ 9% is reduced to 7.5% to bring the rate in tune with the present new economic regime. The appellant is entitled to retain the entire compensation and, therefore, the direction of the Tribunal to keep part compensation in fixed deposit is set aside. The entire money as modified by this order be deposited before the Tribunal for payment to the claimant/appellant.

2. The impugned award is modified accordingly.

(RAJIV NARAIN RAINA)
JUDGE

22.08.2017

neeraj

Whether speaking/reasoned *Yes.*

Whether reportable *No*