

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

FAO No. 2927 of 2007 (O&M)
Date of Decision: October 03, 2017

Rishavjit Singh

..Appellant(s)

Versus

Satwinder Singh and others

..Respondent(s)

with

FAO No. 2928 of 2007 (O&M)

Avtar Singh

..Appellant(s)

Versus

..Respondent(s)

FAO No. 2929 of 2007 (O&M)

Smt. Iqbal Kaur

..Appellant(s)

Versus

Satwinder Singh and others

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Amanpreet Kaur, Advocate for
Mr. HNS Gill, Advocate
for the claimants/appellants (in all the three appeals).

Mr. D.S. Nigha, Advocate for
for respondent no.1 & 2/owner and driver
(in all the three appeals).

Mr. Rajbir Wasu, Advocate
for the respondent no.3/insurance company
(in all the three appeals).

ANITA CHAUDHRY, J.

These are three appeals filed by the injured seeking enhancement in the award dated 22.12.2006, passed by the Motor Accident Claims Tribunal, Ropar. Three separate appeals had been filed by the insurance company which have been allowed vide separate order of today.

Taking up the appeal FAO-2927-20007 first, Rishavjit Singh was three years old at the time of the accident. He was admitted in General Hospital, Sector 32, Chandigarh. The claimants could not produce any bills to show the actual expenses. Only the out door patient slip was placed on record. The Tribunal allowed Rs.5,000/- on account of medical expenses and Rs.10,000/- for pain and sufferings.

In FAO-2928-2007, Avtar Singh had suffered grievous injuries, which included dislocation of the right hip and fracture of the leg. He remained admitted in the hospital for 15 days. He had suffered disability of 20%. The Tribunal allowed Rs.20,000/- on account of medical expenses, Rs.10,000/- for pain and suffering and Rs.20,000/- for loss of income and for permanent disability of 20% and Rs.5,000/- for the attendant and transportation charges, thereby allowing a total sum of Rs.55,000/-.

In FAO-2929-2007, Iqbal Kaur suffered injury on her eye and she remained admitted in the hospital for 15 days. The claimants had pleaded that there was permanent disability but the Tribunal found that there was no disability. It allowed Rs.10,000/- for

the medical expenses, Rs.5,000/- for pain and sufferings and Rs.5,000/- for loss of income and Rs.5,000/- as transportation charges, thus allowing a total compensation of Rs. 25,000/-.

The liability of payment of compensation in all the three cases was placed upon the insurance company, though, the insurance company had taken a plea that the driver did not have a driving licence to drive a tractor. The Tribunal did note that the driver had learners licence but placed the responsibility of payment of compensation on the insurance company.

I have heard the submissions of both the sides.

The counsel appearing in FAO-2927-2007 had urged that Rishavjit was just three years old and injury was on the head and X-ray was advised and the out-patient card refers to the fact that his stitches were removed and the amount allowed is on the lower side on all the heads.

The submission on the other hand was that no bills had been placed on record and there is no evidence that there was a fracture and the amount allowed was sufficient.

The OPD card shows that the minor had suffered injuries on the head, therefore, the Medical Officer had advised an X-ray. The Medical Officer had referred the child to ENT Specialist and had advised medicines. There is also a note that in case of vomiting, they had to contact the hospital as soon as possible. There is a reference to the stitches which were to be removed some days later. The Tribunal had allowed Rs.5,000/- for medical expenses and Rs.5,000/- for pain

and sufferings, which is on the lower side. I would add Rs.5,000/- more for pain and suffering, Rs.5,000/- as attendant charges and Rs.5,000/- as special diet. The total increase would thus be Rs.15,000/-, which would be payable with interest @ 6% from the date of filing of the appeal. The appeal filed by the insurance company bearing FAO-4133-2007 had been allowed and they had been given the right of recovery. The enhanced amount would be paid by the insurance company and they can recover the same from owner/driver.

The counsel appearing for the appellant in FAO-2928-2007 submitted that Avtar Singh was a Head Constable and he remained admitted in the hospital for 15 days and there was disability to the extent of 20% and since there was a fracture, he did not go to his office for 3 – 4 months and the Tribunal had not granted separate compensation for different heads and separate amount should have been allowed for each head. It was urged that the amount is on the lower side and the multiplier method should be applied to calculate the disability and separate amount be allowed for attendant, transportation & special diet. The counsel had urged that injury was on the hip joint, therefore, there would be lot of discomfort.

The submission on the other hand was that there was no loss of income and there was no evidence that he was demoted or had lost his job and the hospitalization was only for 15 days and the Tribunal had allowed compensation also on account of loss of income.

Avtar Singh had suffered 20% disability of the leg. It is not disputed that he did not lose his job. Therefore, there was no loss of income. He had stated that he had remained confined on bed for 3 – 4 months. He would have taken earned leave for the period he remained on bed. He has failed to place his salary certificate on record. I find that the amount allowed on all the heads is on the lower side and the amount that was payable would be as under:-

Sr. No.	Head of Compensation	Amount
1.	Loss of salary for four months (9000 x 4)	Rs.36,000/-
2.	Attendant charges (3000 x 4)	Rs.12,000/-
3.	Transportation	Rs. 3,000/-
4.	Pain and Suffering	Rs.15,000/-
5.	Special diet	Rs. 7,500/-
6.	Loss of amenities	Rs. 25,000/-

I find that the bills on the treatment had been reimbursed by his office, therefore, those are not being added. The total of the above comes to Rs.98,500/-. The Tribunal had allowed Rs.55,000/-, which would be deducted and the remaining amount would be paid with interest @ 6% from the date of filing of appeal till realization. The enhanced amount would be paid by the insurance company and they can recover the same from owner/driver.

The submission on behalf of the appellant – Iqbal Kaur in FAO-2929-2007 was that she had suffered injury on the eye and

there was a disability and the Tribunal had allowed a meagre sum of Rs. 25,000/-. It was urged that no amount had been allowed for the attendant and less amount had been allowed for pain and suffering and the eye site had been affected.

The submission on the other hand was that there was no disability and this fact is noted in the disability certificate. It was urged that the admission in the hospital was only for five days and adequate compensation had been allowed.

A perusal of the record reveals that the claimant had suffered injury on the eye and she was admitted in the hospital for five days. She had been advised number of medicines and she had been visiting the hospital even till April 2013. Her medicines also continued for over five months. Unfortunately, the claimant did not produce the medical bills. The injured had also appeared before the Medical Board for assessment of the disability. There is a note that there was a irregular pupil but it was also stated that there was no disability. The Tribunal had allowed compensation on the lower side. I would allow the following:-

Sr. No.	Head of Compensation	Amount
1.	Medical expenses	Rs.20,000/-
2.	Pain and suffering	Rs.15,000/-
3.	Attendant charges	Rs.3,000/-
4.	Transportation charges	Rs.7,500/-

The total of the above comes to Rs.45,500/-. The Tribunal had allowed Rs.25,000/-, which would be deducted and the remaining

amount would be paid with interest @ 6% from the date of filing of appeal till realization. The enhanced amount would be paid by the insurance company and they can recover the same from owner/driver.

All the three appeals are partly allowed and awards are modified on the terms mentioned above.

(ANITA CHAUDHRY)
JUDGE

October 03, 2017
Sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No