

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

FAO No.5316 of 2014 (O&M)

Date of Decision: January 20, 2017

Baldev Singh

..Appellant(s)

Versus

Hardeep Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. G.S. Toor, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent no.2-Insurance Company.

ANITA CHAUDHRY, J.

CM-14907-CII-2013

For the reasons set out in the application, same is allowed
as prayed for and delay of 117 days in filing the appeal is condoned.

FAO No.5316 of 2014

The appellant was injured in an accident which occurred on
03.07.2010. He was going on a motorcycle when a car coming from
behind struck him and his right leg below the knee was fractured. The
claimant was an agriculturist and was involved in dairy farming. The
claimant had pleaded that a rod was inserted in his leg and his treatment
was long and he had become crippled for life and his whole family was
affected and his son could not continue his higher studies.

After a complete trial, the Tribunal awarded Rs.2,74,000/- i.e. the actual amount spent on the purchase of medicines, tests and transportation on three occasions. A sum of Rs.66,000/- was allowed for the pain and suffering and Special diet. A total sum of Rs.3,40,000/- was awarded with interest @ 6% from the date of the award till actual realization.

Records have been summoned.

The submission on behalf of the appellant was that the amount allowed for pain and suffering was meagre and the claimant had been crippled for life and he would not be able to walk on his own and he had not been awarded adequate amount for the special diet. It was urged that the son could not continue his studies after this accident.

The submission on the other hand was that the Tribunal had noted in para no.15 the dates of hospitalization. He was admitted for about 27 days in two different hospitals and the entire amount spent on the medicines, tests and transportation had been awarded and there is no disability and adequate amount had been allowed for pain and suffering. It was alleged that there was no evidence to show that the son had left the studies after the accident and the oral statement could not have been accepted and there was no reason for the son to leave the studies because the father had suffered a fracture.

The record reveals that the claimant had been admitted in the hospital three times. There was a fracture of the leg below the knee and the treatment continued till December,2010. The claimant led

evidence to show that he had gone to the hospital at Amritsar on six occasions and the entire amount spent on the treatment had already been allowed to him. I also find that the respondents had raised a plea that a compromise had been effected but no evidence was led to show that any amount had been paid which called for any adjustment. There is no evidence with respect to the income, though it had been stated that the injured was an agriculturist. There was a fracture, the claimant could not have worked for three months. Therefore, some amount should have been allowed for the loss of income, which I take @ Rs.3,700/- X 3, which comes to Rs.11,100/-. A sum of Rs.15,000/- is allowed as attendant charges and the amount allowed for pain & suffering and special diet is increased to Rs.1 lac. The Tribunal had allowed Rs.66,000/- on this head and after deducting this amount, the additional amount payable now would be Rs.34,000/- for pain and sufferings and special diet. The total amount payable would be 34,000 + 15,000 + 11,100/- which raises the compensation by Rs.60,100/-. This amount would be paid within two months, failing which the appellant would be entitled to interest at the same rate as allowed by the Tribunal from the date of filing of appeal till realization.

The appeal is disposed of accordingly.

(ANITA CHAUDHRY)
JUDGE

January 20, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No