

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 8710 of 2014
Date of Decision: 13.10.2017

Phul Chand

.....Appellant

Versus

Surender and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Bhuvnesh, Advocate for
Mr. Sanjay Mittal, Advocate
for the appellant.

Respondents No. 1 and 2 *ex parte*.

ANITA CHAUDHRY, J

This is the claimant's appeal seeking enhancement in the award dated 23.7.2014 passed by the Motor Accident Claims Tribunal, Narnaul.

The record had been requisitioned.

The claimant met with an accident on 30.5.2011 and suffered a disability. His right hip joint was reduced by 30% and right knee joint by 10%. It was a case of malunited femur. The lower right limb was shortened by 1½ inches. The Tribunal noted that no evidence had been led with respect to the income. It assessed the income to be Rs. 5,000/- per month. The income of a labourer was considered and the actual medical expenses of Rs. 85,739/- were allowed. A sum of Rs. 60,000/- was allowed for disability @ Rs. 2,000/- per percentage. Rs. 15,000/- was allowed for loss of income for three months, Rs. 10,000/- for the attendant, Rs. 5,000/- for special diet, Rs. 10,000/- for pain and suffering and Rs. 5,000/- for transportation.

Counsel for the appellant contends that if the claimant was

considered to be a labourer and with this injury it would be difficult for him to work and would affect his efficiency and the compensation has not been adequately granted. It was urged that the treatment would have been longer and the loss of income would be for a number of months and the amount allowed for special diet, pain and suffering and transportation is on the lower side.

The claimants had arrayed the insurance company as a party but respondents No. 1 and 2 failed to place on record the policy to show that the vehicle was insured. The liability to pay the compensation was rightly placed upon respondents No. 1 and 2 i.e. owner and driver.

The claimant had suffered disability to the extent of 30%. I would consider the income of the claimant to be Rs. 5,000/- per month and make no change, though, the minimum wages was little less than Rs. 5,000/- in June 2011. Taking the income to be Rs. 5,000/- and the functional disability at 25%, the loss would be Rs. 1250/- per month and the amount would work out to Rs. 1250 x 12 x 15 = Rs. 2,25,000/-.

I also find that the amount on the other heads is on the lower side. Therefore, the compensation which was payable by the owner-driver would be as under:-

Sr. No.	Head of Compensation	Amount
1.	Disability	Rs. 2,25,000/-
2.	Loss of income (5,000 x 4)	Rs. 20,000/-
3.	Special diet	Rs. 15,000/-
4.	Attendant charges (4,000 x 3)	Rs. 12,000/-
5.	Pain and suffering	Rs. 25,000/-
6.	Actual medical expenses	Rs. 85,739/-
7.	Transportation	Rs. 7,500/-
8.	Physiotherapy (3,000 x 4)	Rs. 12,000/-
	TOTAL	Rs. 4,02,239/-

The Tribunal had allowed Rs. 2,01,950/- which would be deducted and the balance amount i.e. Rs. 2,00,289/- would be paid by respondents No. 1 and 2 with interest @ 6% from the date of filing of the appeal till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

October 13, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No