

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 74 of 1991(O&M)

Date of Decision: 28.3.2018

Jagdish Chander

---Appellant

versus

Dhanesh Nayyar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Aseem Aggarwal, Advocate
for the appellant

Mr. R.K.Bashamboo, Advocate,
for the insurance company

Rekha Mittal, J.

The injured is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 29.12.1988 around past midnight (12.30).

The Motor Accidents Claims Tribunal, Faridabad (in short “the Tribunal”) has awarded compensation of Rs. 3,404/- (rounded off to Rs. 3500/-) namely Rs. 604/- towards medical expenses and Rs. 2800/- qua loss of income for the period of treatment and recovery @ Rs. 700/- per month for a period of four months.

Counsel for the appellant would argue that Dr. S.S.Yadav, PW3, Medical Officer appeared in the witness box and deposed that Jagdish Chander had fracture of tibia of left leg and fracture of both bones of right

leg and the same tallies with the injuries reflected in Medico Legal Report (Ex. P-14) prepared by Dr. V.P.S.Panwar. Injured was discharged from hospital the next day after POP cast was put on both legs. It is argued that the Tribunal has not awarded any compensation for pain and suffering, transportation and special diet. It is further argued that the appellant filed an application for placing on record certificate issued by Civil Surgeon with regard to disability to the extent of 5%, therefore, he is entitled to compensation in respect of disability suffered due to injuries sustained in the occurrence.

Counsel representing the insurance company has supported assessment made by the Tribunal.

There is no contest to findings of the Tribunal that the injured suffered fracture of tibia of left leg and both bones of right leg and discharged from the hospital after POP cast on both legs. The Tribunal has awarded compensation for loss of income qua the period of treatment and recovery for four months. Taking into consideration nature of injuries sustained coupled with treatment i.e. POP plaster on both legs, claimant is awarded an amount of Rs. 10,000/- for pain and suffering, services of an attendant and special diet etc.

The claimant filed an application for placing on record certificate of Civil Surgeon qua disability caused to him. Nothing has been mentioned in the certificate if the disability is permanent or temporary in nature. It has also not been made clear as to the nature of disability suffered by the victim because of fracture of both legs. In the given scenario, claimant is awarded an amount of Rs. 2000/- qua disability. The Additional amount of Rs. 12,000/- shall be payable with interest @ 7.5% per annum

from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

28.3.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No