

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 123 of 2017(O&M)
Date of Decision: 28.3.2018

Suba @ Sube Singh

---Appellant

versus

Pardeep Kumar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Raman Chawla, Advocate
for the appellant
Ms. Vandana Malhotra, Advocate,
for the insurance company

Rekha Mittal, J.

The injured is in appeal seeking enhancement of compensation on account of injuries sustained by him a motor vehicular accident that took place on 8.3.2014.

As liability to pay compensation is joint and several and the insurer is not given right of recovery, service of respondent No. 1 is dispensed with.

The Motor Accidents Claims Tribunal, Hisar (in short “the Tribunal”) has awarded compensation of Rs. 4,50,000/-, detailed hereunder:-

Disability on account of loss of future income	Rs. 2,00,000/-
Medical expenses	Rs.2,00,000/-
Pain and suffering	Rs. 25,000/-
Special diet and transportation charges	Rs. 10,000/-
Loss of enjoyment of life	Rs. 15,000/-

Counsel for the appellant would argue that as the injured was working as Security Guard in a private security farm in HAU, Hisar and it is the requirement of job as a security guard that person should be physically fit to guard the property and person for whom his services were engaged, disability suffered by the injured would render him unable to work as a security guard, therefore, claimant is entitled to loss of future income on the basis of his salary at Rs. 8400/- per month paid as a guard in private security farm in HAU, Hisar.

Counsel representing the insurance company has supported findings of the Tribunal assessing functional disability to the extent of 20% and awarding compensation qua loss of future income to the tune of Rs. 2,00,000/- assessed by applying multiplier method.

Dr. Reena Jain, Medical Officer PW-11 was examined to prove disability suffered by the appellant. She has deposed that Sube Singh was examined by a team of doctors and found him permanent physically disable to the extent of 42% in relation to his bilateral lower limb and proved disability certificate Ex. P81. She has also testified that with the disability, the patient will face difficulty in doing heavy manual work.

The claimant has raised contention that he was working as security guard in private security farm in HAU, Hisar at a salary of Rs. 8400/- per month. The Tribunal has noticed in para 19 of the award that claimant neither has filed any documentary evidence nor examined a witness to prove that he was working as security guard at a salary of Rs. 8400/- per month. In the given scenario, the Tribunal has assessed his income at Rs. 5547/- per month on the basis of wage of an unskilled labour. There is no medical opinion as to how disability of 42% of a lower limb is

to be treated for computing functional disability. However, it remains a fact that Dr. Reena Jain has deposed that the injured will face difficulty in doing heavy manual work. As the Tribunal has treated the injured as an unskilled labour, interest of justice command that disability of 42% is to be taken as functional disability at least to the extent of 30%. The Tribunal has applied multiplier of 15 but the same should be 16. In this view of the matter, compensation for future loss of income qua disability is calculated at Rs. 3,19,507/- [(30% of 10,65,024 (5547 x 12 x 16)]. Compensation of Rs. 2,50,000/- awarded under other heads is affirmed.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed. The claimant shall be entitled to additional amount of Rs.1,19,507/-(5,69,507-4,50,000), payable with interest @ 7.5% per annum from the date of petition till realization.

(Rekha Mittal)
Judge

28.3.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No