

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1465-2005(O&M)

Date of decision: 07.05.2019

Jai Singh

.....Appellant

versus

Inder Singh etc.

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Ms.Priya Deep, Advocate for
Mr.Mrigank Sharma, Advocate for the appellant
Mr.Vinod Chaudhri, Advocate for respondent no.3

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Claimant-appellant has filed this appeal against award dated 24.12.2004, passed by Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal'), vide which, for the injuries received by him, a compensation to the tune of Rs.1,12,561/- was awarded.

Facts of the case are that the claimant was riding bicycle on 17.5.2002 near a canal, when he was hit by a Tanker bearing Registration Number HR-47-6158. He fell in the canal along with his bicycle and received multiple injuries. He was given first aid in Civil Hospital, Panipat and thereafter he was referred to Safdarjung Hospital, New Delhi. The claimant was aged about 21 years at the time of accident and was unmarried. The Tribunal, while holding that the valid driving licence of the driver of offending vehicle could not be proved, exonerated the insurance company

and awarded compensation under the following heads:-

1. Pain and suffering and special diet	Rs.10,000/-
2. Medical Bills	Rs.27,561/-
3. Transportation	Rs.10,000/-
4. Suspected disability	Rs.15,000/-

Heard.

It is not denied that in this case, no disability certificate was proved.

I have gone through the statement of Dr.Alok Kumar (PW4), which shows that claimant-appellant had fracture of D-12 and L-1 in the spinal cord. Doctor further stated that chances of recovery are 50% to 90% after the operation. As no disability was proved, compensation to the tune of Rs.15,000/- was allowed.

I am of the view that fracture is of D-12 and L-1 of the spinal cord, for which, operation is required. There is nothing on file to show that the operation was done. Presumably, the claimant-appellant in future will have to undergo operation. Since, the spinal cord is vital part of the body, it will also affect day to day life of the claimant-appellant for certain period, which may run into months.

Therefore, considering about future operation of the spinal cord and the possible recovery to great extent, I am of the view that in place of Rs.15,000/-, Rs.50,000/- should be allowed as compensation for future operation and disability, which is likely to occur after the operation. Under the other heads, adequate compensation has been awarded and there is no ground to increase the same.

Now, coming to the liability of the insurance company. The Tribunal exonerated the insurance company on the ground that a valid

driving licence of the offending vehicle was not proved. This matter was examined by the Apex Court in Pappu and others vs. Vinod Kumar Lamba and another, 2018(2) R.C.R. (Civil) 42, wherein, after discussing the case law, Apex Court was of the opinion that in case of invalid or no licence, the insurance company has to reimburse the injured and then recover the compensation from the owner.

In view of the law laid down by the Apex Court, findings of the Tribunal on issue no.2 are reversed to the extent that the insurance company is liable to pay the compensation but it shall have right to recover the same from the owner of the offending vehicle. As such, appeal is allowed. The enhanced compensation of Rs.35,000/- shall be paid with interest @ 7% per annum from the date of filing of claim petition till realization. Insurance company shall pay the entire compensation but it shall have the right to recover the same from the owner of the offending vehicle.

07.05.2019*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No