

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:21.1.2019

FAO No. 4102 of 2014(O&M)

Madan Lal

---Appellant

vs.

Devinder Singh and others

---Respondents

FAO No. 4228 of 2014(O&M)

Banwari Lal

---Appellant

vs.

Devinder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.B.K.Bagri, Advocate
for the appellant(s) in both the appeals

None for respondents No. 1 and 2

Mr. B.S.Tanque, Advocate
for the insurance company in FAO-4102 of 2014

Mr. V.Ramswaroop, Advocate
for the insurance company in FAO- 4228 of 2014

Rekha Mittal, J.

This order will dispose of FAO Nos. 4102 and 4228 of 2014 as these have emerged out of common award dated 19.12.2013 passed by the Motor Accidents Claims Tribunal, Rewari (in short “the Tribunal”) whereby compensation has been assessed on account of injuries sustained by Madan

Lal and Banwari Lal in a motor vehicular accident that took place on 15.9.2011.

FAO No. 4102 of 2014 has been filed by Madan Lal seeking enhancement of compensation whereas the other appeal has been filed by Banwari Lal for the same relief.

FAO No. 4102 of 2014

The Tribunal has awarded compensation of Rs.7,54,480/-, detailed hereunder:-

Medical expenses	Rs. 1,60,000/-
Loss of income on account of disability	Rs. 5,64,480/-
Pain and suffering	Rs. 25,000/-
Expenses on transportation	Rs. 5,000/-

Counsel for the appellant would urge that compensation allowed by the Tribunal on account of pain and suffering is inadequate as the injured suffered disability to the extent of 80% on account of amputation of right lower limb through thigh. He has also pressed for enhancement of compensation qua transportation expenses and additional amount in respect of special diet, loss of amenities of life etc.

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

The medical expenses reimbursed by the Tribunal are based on oral and documentary evidence on record and compensation assessed qua loss of income on account of disability are liable to be affirmed and ordered accordingly.

Dr. Ritu Yadav PW9, the then Medical Officer, General

Hospital, Rewari would state that the claimant was medico legally examined and five injuries were found on his person, recorded in the medical legal report Ex. PW9/B. Dr. Ramesh Yadav, Ortho Hospital, Rewari PW2 testified that Madan Lal remained admitted in his hospital from 18.9.2011 to 20.10.2011. Kapil Chaudhary PW6, Junior Executive, Medical Record, Paras Hospital, Gurgaon proved the medical bills Ex. PW6/C of Rs. 1,16,700/-. Dr. Ashok Saini PW3, has proved the disability certificate Ex. PW3/B whereby the claimant's disability has been assessed to the extent of 80% on account of amputation of right lower limb through thigh.

Taking into consideration nature of injuries sustained coupled with period of treatment as an indoor patient rendering the injured disable to the extent of 80% on account of amputation of right lower limb, claimant shall be entitle to an amount of **Rs. 50,000/-** for pain and suffering. He shall further be entitle to a sum of **Rs. 20,000/-** for transportation expenses and special diet. The claimant is allowed an amount of **Rs. 25,000/-** for loss of amenities of life.

Total compensation is Rs. 8,19,480/- and the additional amount is Rs. 65,000/- (8,19,480 – 7,54,480), payable with interest @ 7.5% from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

FAO No. 4228 of 2014

With regard to injuries sustained by Banwari Lal, the Tribunal has awarded compensation of Rs. 3,38,205/-, detailed hereunder:-

Reimbursement of Medical bills	Rs. 41,549/-
Loss of income on account of disability	Rs. 2,71,656/-

Pain and suffering

Rs. 25,000/-

Counsel for the appellant would argue that the Tribunal has not allowed compensation for loss of amenities of life, transportation and special diet. Compensation allowed by the Tribunal on account of pain and suffering is on the lower side.

The Tribunal has allowed medical expenses to the tune of Rs. 41,549/- based upon documentary evidence and compensation assessed qua loss of income on account of disability are liable to be affirmed and ordered accordingly.

The injured remained hospitalized from 15.9.2011 to 20.9.2011 in Shri Krishna Hospital, Rewari. He again remained admitted from 12.10.2011 to 22.10.2011 in Ortho Hospital, Rewari making the total period to 15 days. The injury suffered by the victim rendered him disable to the extent of 49% on account of restricted movements of right hand, right knee, right ankle with partial loss of stability with shortening with restricted movements of right hand with pain. Dr. Anil Yadav PW8 has deposed that Banwari Lal suffered injuries on right hand, right knee, right ankle and foot. He was operated during his admission in Shri Krishna Hospital, Rewari.

Taking into consideration the nature of injuries sustained by the victim, his treatment as an indoor patient and nature and extent of disability suffered by him, claimant is awarded a sum of **Rs. 15,000/-** for expenses on transportation and special diet. Compensation allowed by the Tribunal for pain and suffering is enhanced to **Rs. 30,000/-** (additional amount of Rs. 5000/-). The injured shall be entitle to **Rs. 20,000/-** for loss of amenities of life.

Total compensation is Rs. 3,78,205/- and the additional amount is Rs. 40,000/- (3,78,205-3,38,205), payable with interest @ 7.5% from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

21.1.2019
paramjit

Whether speaking/reasoned: Yes
Whether reportable : Yes/No