

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 13.1.2020

1.

FAO No. 4853 of 2012(O&M)

Satyanarain

.....Appellant

VERSUS

Raj Kumar and others

.....Respondents

Present: Mr. S.K. Yadav, Advocate for the appellant.

Mr. J.P. Sharma, Advocate for respondent No.1.

Mr. Shashikant Gupta, Advocate for respondent No.2.

Mr. Nitin Grover, Advocate for respondent No.3.

2.

FAO No. 1011 of 2013(O&M)

Raj Kumar

.....Appellant

VERSUS

Satyanarain and others

.....Respondents

Present: Mr. J.P. Sharma, Advocate for the appellant.

None for respondent No.1.

Mr. Nitin Grover, Advocate for respondent No.2.

Mr. Shashikant Gupta, Advocate for respondent No.3.

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

REKHA MITTAL, J.(Oral)

This order will dispose of FAO Nos.4853 of 2012 and 1011 of 2013 as these have emerged out of the same award dated 01.08.2012 passed by the Motor Accidents Claims Tribunal, Narnaul whereby

compensation has been assessed on account of injuries sustained by Satyanarain in a motor vehicular accident that took place on 29.06.2010 and insurance company has been exonerated of liability to pay compensation.

FAO No.4853 of 2012 has been filed by the injured – claimant for grant of additional compensation whereas the other appeal has been filed by driver of offending vehicle..

FAO No.4853 of 2012

The Tribunal has awarded Rs.4,55,065/- detailed hereunder:-

Medical expenses	Rs.25,000/-
Pain and suffering	Rs.20,000/-
Special diet	Rs.10,000/-
Transportation	Rs.10,000/-
Loss of future income	Rs.1,44,065/-
Loss of amenities	Rs.2,40,000/-
Loss of income	Rs.6000/-

Counsel for the appellant would argue that prior to unfortunate occurrence, the victim was working in G4S Security Services (India) Pvt. Ltd., Delhi (hereinafter referred to as ‘the Company’) at salary of Rs.7276/- per month.

D.K. Samal, a representative of the aforesaid company had stated that the appellant is not fit for security services on account of disablement due to amputation of right arm lower one third. It is argued that functional disability assessed by the Tribunal is on extremely lower side and needs correction. It is further argued that adequate compensation

may be allowed for pain and sufferings and compensation for services of an attendant.

Counsel representing the respondents, on the contrary, would argue that the Tribunal has awarded Rs.2,40,000/- for loss of amenities of life which needs reduction.

Taking into consideration the materials on record and the fact that injured had lost job in the aforesaid company because of sustaining injury rendering him disable to the extent of 80% on account of amputation of right arm lower one third, functional disability shall be considered @ 50%. Accordingly, future loss of income is calculated at Rs.4,80,216/- [Rs.7276 x 12 x 11 x 50/100].

Compensation allowed for loss of amenities of life is reduced to Rs.50,000/- as claimant has been awarded loss of future income by applying multiplier method. In this context, reference can be made to judgment of Hon'ble the Supreme Court **Raj Kumar Vs. Ajay Kumar and others, 2011 (1) SCC 343**. Claimant is awarded Rs.10,000/- for services of an attendant during period of treatment and recovery.

Compensation allowed under other heads is affirmed.

In view of the above, total compensation is Rs.6,11,216/- and additional amount is Rs.1,56,151/- (Rs.6,11,216/- – Rs.4,55,065/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

FAO No.1011 of 2013

The insurance company has been exonerated of liability to pay compensation on the question of route permit and driving licence,

reference whereof has been made in paras 16 and 17 of the award. The appellant filed an application under Order 41 Rule 27 CPC seeking permission to produce additional evidence i.e. copy of verification report of driving licence (Annexure A-2). Another application (CM No.8180-CII of 2014) was filed for placing on record copy of route permit (Annexure A-3) and same was allowed vide order dated 02.02.2015.

Counsel for the insurance company would fairly inform that on verification, it has been found that driver had a valid licence to drive the offending vehicle on the day of accident and there was a route permit issued in respect of the offending vehicle. He has also conceded that in view of additional evidence permitted to be adduced and verification made by the insurance company, findings of the Tribunal on the aforesaid matter may not sustain.

Taking into consideration the aforesaid that driver was duly licensed to drive Bus No.RJ-07/5178 and there was valid route permit in respect of the said vehicle, findings of the Tribunal rendered in paras 16 and 17 of the award are set aside. As a natural consequence, insurance company shall be jointly and severally liable to pay compensation in discharge of its contractual obligation to indemnify the insured.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

JANUARY 13, 2020

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no