

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

1) FAO-1984-1998 (O&M)
Date of decision: 14.12.2021

National Insurance Company LimitedAppellant

versus

Satbir Singh and anotherRespondents

2) Cross Objections-54-CII-2019 in
FAO-1984-1998 (O&M)

Satbir Singh and anotherCross-Objectors

versus

National Insurance Company LimitedRespondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sanjiv Pabbi, Advocate
for the appellant.

Mr. Ashish Gupta, Advocate
for the cross-objectors/respondents.

FATEH DEEP SINGH, J.

The instant first appeal is against order of Commissioner Workman Compensation Act dated 29.05.1998, whereby, in the impugned order, the Commissioner has awarded a sum of Rs.1,30,146/- as

compensation to then applicant-Satbir Singh along with interest @ 12% per month on this amount from the date it became due till actual payment with no order as to costs.

The instant appeal by the insurer-National Insurance Company Limited challenging *inter alia* the order on the grounds of being highly excessive as well as the total amount of compensation so allowed as well as the fact of rate of interest that has been awarded on the said amount. The Workman filed cross-objections under Order 41 Rule 22 read with Section 151 CPC seeking enhancement of the same claiming that the awarded amount is on the lower side and he is entitled to more than Rs.5 lakhs on account of bodily injuries, which has rendered him unable to carry on with his avocation.

Heard counsel of both the sides and perused the records.

The factum that Workman-Satbir Singh was employed with respondent No.1 is not at all displaced in the pleadings of the parties and it is well elicited that the Workman was working as a Driver on Maruti Car No. HYJ-3002 which was insured with the appellant-National

Insurance Company (in short 'the insurer'). Though, ten issues have been framed by the Commissioner which are as follows:-

- 1. Whether the relationship was existing between the respondent No.1 and the applicant as master and servant or not. If so with what extent?OPA.*
- 2. Whether the accident occurred during the course of employment or not of so its effects?OPA.*
- 3. Whether the applicant sustained any injuries in the accident as alleged in the claim application of so to what amount, he is entitled of from whom?OPA.*
- 4. Whether the claim application is time learned and if so he is entitled for condonation of delay?*
- 5. Whether the application filed in collusion with respondent No.1? If so to what its effect?OPA.*
- 6. Whether the claim application maintainable as alleged in proved of written statement of the respondent No.2 and what its effect?*
- 7. Whether the application is maintainable against the respondent No.2 as alleged in para No.2 of the written statement.*
- 8. Whether the claim application is false and respondent No.2 is entitled for special cost or not?*
- 9. Whether the injuries caused by accident are out of and during the course of employment? If so with what effect?*
- 10. Whether the applicant is entitled to the claimed accident or not. If so with what detailed delay.*

However, the primary issue and sole subject

matter of arguments is over the very quantum of compensation and the rate of interest so awarded as none of the counsels had touched other aspect of the matter. Keeping in view the admission and due proved fact of there being a master and servant relationship between Satbir Singh and Baljeet Singh and the fact that the vehicle, in question, on which he was employed as a driver was insured with the Insurance Company and, therefore, in terms of Section 11 of the Workman Compensation Act, 1923 (in short 'the Act'), compensation application certainly lies. The factum of an earlier claim petition having been filed under the Motor Accidents Claim Tribunal does not have any implication on the present matter as it is admitted that the Workman has withdrawn the same before its adjudication and, therefore, that decision is not on merits. It is there established that Workman was getting a lump sum amount of Rs.1,000/- per month and in his testimony as AW-2 has duly enumerated the same and his injury have been proved by none other than AW-1-Dr. M.L. Kochar, Medical Officer and AW-3-Dr. Brijpal Singh, Surgeon. The accident having taken place on 29.08.1994 is not at all displaced and the factum of Workman

having been admitted in Civil Hospital, Jind and his discharge slip as Ex.AW-2/1 leaves nothing to doubt. More so, it is the admitted case of the employer as to this fact and which is also there in the written statement filed by the employer before the Accidents Claim Tribunal.

The MLR EX.AW-3/1 further illustrates the extent of the disabilities and damage that has occurred as a consequence of this Motor Vehicles Accident. Thus, from this over all evidence led on the records nothing is illustrative as to the truth in the claim raised by the Workman. The amount of compensation to which the Workman is entitled to is well detailed in Section 4 of the Act. Since, the accident has taken place during the course of the employment of the Workman certainly is entitled to compensation. The case of the Workman falls within Part B of Section 4 (i) (b) of the Employees Compensation Act and which in lis, the amount equal to 60% of the monthly wages multiplied by the relevant factor or amount of Rs.1,40,000/-, whichever is more needs to be taken into consideration. Since the provisions of the Act are welfare in nature for the betterment of the Workman and there being no specific medical categorization of the nature of

injury, whether it falls in Part 2 of the Schedule or otherwise and, therefore, at this belated juncture, after almost 27 years, it would be too preposterous to open up such an aspect of the matter, especially, when it is duly admitted that the compensation already stands disbursed to the Workman and this Court feels that the compensation awarded to the Workman amounting to Rs.2,000/- per month totalling to Rs.1,30,146/- appears to be reasonable. However, interest @ 12% at this juncture, appears to be on higher side and keeping in view the Bank rates, it will be appropriate to award 9% interest on this amount from the date of the accident till realization of the amount.

In view of the foregoing discussions detailed above and modification, both the appeal as well as the cross-objections, stand disposed off as dismissed.

14.12.2021

Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No