

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-786-2023 (O&M)

DATE OF DECISION: 16.02.2023

UNITED INDIA INSURANCE CO.LTD

... Petitioner (s)

Versus

NARINDER SINGH AND ORS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Gopal Mittal, Advocate for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

The appellant has challenged the award of the Tribunal dated 11.10.2022 whereby compensation of Rs.17,05,176/- has been directed to be paid to the respondents.

Learned counsel for the appellant submits that respondent No.1/claimant had suffered injury in his left foot and leg which led to locomotor disability to the extent of 50% but the Tribunal has erroneously determined overall permanent disability to the extent of 50%. He further submits that by suffering disability in the leg, the claimant could still carry on with his day to day activities and he had admitted in his cross-examination that he has been able to climb the stairs of the Court on his own with the help of a stick. In support his contentions, he has relied upon the judgment of the Supreme Court in the case of **Raj Kumar Vs. Ajay Kumar and another, 2011(1) SCC 343.**

Heard.

The claimant, who was stated to be travelling on a motorcycle, had met with an accident which allegedly taken place due to rash and negligent driving of a car which was insured with the appellant company. He

had received serious injuries in his leg. He had been admitted in a Super Speciality Hospital and record of the hospital produced as Ex.P-2. He had also remained under treatment in the PGI, Chandigarh and had submitted the medical record Ex.P-3 and P-4. He is stated to have suffered serious injuries on his left ankle joint. A government doctor namely Sanjot Gupta, who is an Orthopaedic Surgeon, Government Health Center, Nalagarh had been examined as PW-2 and he had proved the disability certificate of the claimant. The certificate had been proved as Ex.PW2/A. It indicates a case of locomotor disability and the permanent disability has been assessed as 50%. The post traumatic deformity of left foot and leg is also 50%. The doctor had submitted that the deformity is permanent. The claimant was working as a Truck Driver. He had proved his driving licence as Ex.RW-1 wherein it had been mentioned that the holder thereof was entitled to drive a heavy vehicle.

It is, thus, manifest that the claimant had suffered permanent damage to the extent of 50% on his left foot and leg. It would be difficult for a person who was driving a heavy vehicle to get work /future employment in the wake of such deformity. Therefore, I do not find any fault in the Tribunal assessing his permanent disability to the extent of 50% and determining the compensation in terms thereof.

The judgment of the Supreme Court relied upon by the counsel for the appellant in the case of **Raj Kumar Vs. Ajay Kumar and another** (supra) is distinguishable on facts and not applicable to the instant case inasmuch as that case related to 45% functional disability of the left lower

limb but the claimant therein was a cheese vendor and in such circumstances it was held that the disability may not impede in his smooth functioning with regard to his occupation.

In the instant case, the claimant was a heavy vehicle driver and the disability in the left foot would certainly be a major hindrance in performing his duties. The income of the claimant had been determined at the rate of Rs.15,000/- per month on the basis of his being heavy vehicle driver. He had duly proved on record his licence for driving heavy vehicle. Therefore, the income of Rs.15,000/- cannot be said to be on a higher side. The Tribunal, while assessing the compensation under other conventional heads, has relied upon the Schedule as laid down in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 121**.

Consequently, I do not find any merit in this appeal which stands dismissed.

Civil miscellaneous application(s), if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

16.02.2023

SwarnjitS

Whether speaking/reasoned

:

Yes / No

Whether reportable

:

Yes / No