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Court : Punjab and Haryana

Decided On : Oct-24-1989

Reported in : II(1990)ACC197

Judge : S.S. Sodhi, J.

Appellant : Subhash Chander

Respondent : Punjab State Through General Manager, Punjab Roadways, Shri Pavitar Singh

Judgement :

S.S. Sodhi, J.

1. The claim in appeal here is for enhanced compensation. The claimant being Subhash Chander who sustained injuries when while driving his scooter, he was involved in an accident with the bus PUK-6068 coming from the opposite direction. This happened at about 10 P.M. on March 18, 1982 on the Mohali-Chandigarh Road. It was the finding of the Tribunal that the bus-driver was wholly to blame for the accident. A sum of Rs. 8,000/- was awarded as compensation to Subhash Chander.

2. A reference to the evidence on record would show that the claimant-Subhash Chander was about 33 years of age at the time of this accident. When he came into the witness box, it was the testimony of the claimant that in this accident, he sustained injuries on his head, shoulder and foot and he remained admitted in the Post Graduate Medical Institute, Chandigarh for 5 days and then spent four months at home in bed with his leg in plaster. He also deposed that he has constant pain in his right foot and he cannot put it straight. His right hand too, he stated, does not function normally. According to him, he spent about Rs. 6,000/- on his medicines and conveyance charges. Besides this, he claimed that he had suffered a loss of Rs. 8,000/- in earnings being a typist in his typing institute.

3. To depose to the injuries on the person of the claimant, there is the statement of P.W. 3 Dr. S.S. Sandhu from the Department of Orthopedic of the Post Graduate Medical Institute, Chandigarh, who deposed that on his admission to the hospital, he found compound type two fractures of the first and second metatarsals of the right foot along with the fracture of right clavicle. In hospital, debridement of the wound was done under general anesthesia and plaster was applied below the knee. Subhash Chander, he stated, was admitted in the hospital on March 19, 1982 and was discharged on March 21, 1982. Further, he deposed that he had examined the claimant on the day, he gave his testimony which was October 25, 1983 and found a disability in the movement of the ankle joint and in the right foot there was moderate limitation of motions with pain. He assessed the permanent physical impairment and loss of physical function of the right foot at 20 per cent.

4. It may be mentioned here that in appeal, an application for additional evidence had also been filed with a view to show the present physical condition of the claimant with reference to the injuries suffered by him in this accident. This application was, however, not pressed.

5. There can be no manner of doubt that the claimant suffered fractures in the right foot and also a fracture of his collar bone. Besides the time spent by him in hospital, he must obviously have spent by him in hospital, he must obviously have spent a couple of weeks at home while his foot was under plaster. It is also significant to note that as per the testimony of P.W. 3-Dr. S.S. Sandhu, even a

year-and-half after the accident, he felt pain in his right ankle joint and foot and the physical disability was assessed at 20 per cent. Besides this, the claimant must undoubtedly have also spent some amount on his medical treatment and special diet. No accounts of the amount spent under either of these Heads are, however, forth coming. Be that as it may, it would be fair and just to award some compensation under these Heads.

6. As regards the loss of income suffered by the claimant on account of this accident, it would be pertinent to note that on his own showing, the claimant has not filed any income-tax return after 1978 though he Claims that he used to earn Rs. 2,000/- Per month. Except this bald statement, he has not cared to bring forth any evidence to suggest any loss of income. This being so, there is clearly no warrant for awarding him any compensation this account.

7. There can be no precise measure of compensation for the pain and suffering that a claimant has to undergo on account of injuries sustained by him in an accident and the consequent loss of enjoyment of amenities of life. Each case has to be considered in its own set of circumstances. Seen in this light, in the context of nature and extent of the injuries suffered by the claimant, the pain and suffering caused to him thereby as also the permanent disability that he is now left with, it would be fair and just to assess the compensation payable to him both under these Heads as also for the cost of medical treatment and special diet at Rs. 30,000/-.

8. The compensation payable to the claimant is accordingly hereby enhanced to this extent which he shall be entitled to along with interest at the rate of 12 per cent. Per annum from the date of the application to the date of the payment of the amount awarded. This appeal is accordingly hereby accepted with costs.