

(1984) 07 P&H CK 0024
In the Punjab And Haryana At Chandigarh
Case No : F.A.F.O. No. 111 of 1980

Avtar Singh

APPELLANT

Vs

Akal Bus and Transport Company (P) Ltd. and Others

RESPONDENT

Date of Decision : 19-07-1984

Acts Referred:

Citation : (1985) ACJ 568

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : Devinder Verma, for the Appellant; L.M. Suri, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sodhi, J.—The claimant Avtar Singh sustained injuries while travelling in the bus PUL 1415 when it hit into a tractor trolley parked on the roadside. This happened when the bus driver was trying to overtake another bus. This incident took place on November 13, 1977 at about 7.30 a.m., on the Ludhiana-Mullanpur road.

2. It was the finding of the Tribunal that the accident had been caused due to the rash and negligent driving of the bus driver. A sum of Rs. 11,000/- was awarded as compensation to Avtar Singh for the injuries suffered by him.

3. The claim in appeal is for enhancement of compensation.

4. The injuries suffered by the claimant in this accident were:

(1) 4 cm. linear cut on the left lateral eyebrow 1 cm. deep. Bone was exposed.

(2) 2.5 cm. long cut right side of forehead.

superficial, bone not fractured.

(3) 2.5 cm. long dorsum of the right hand, superficial, bone not fractured.

(4) Closed fracture intertrochanteric right side.

(5) Small cut 2 cm. long just below right knee. Bone was not fractured.

5. According to AW 6, Dr. Abrahampal of the Christian Medical College Hospital, Ludhiana there was 1" shortening of the right lower limb and limitation of movements of the right hip. These injuries now constituted a permanent disability to the extent of 30 per cent. Further, the evidence on record shows that the claimant remained admitted in the hospital from November 13, 1977 to December 6, 1977. He was also operated upon during this period.

6. The claimant AW 3, Avtar Singh deposed that he had become handicapped on account of the injuries suffered by him and could no longer run or ride a cycle nor could he partake in any games.

7. In a somewhat similar case Pepsu Road Transport Corporation Vs. Satinder Sharma,), relating to the fracture of the right femur and shortening of the leg by 1", a sum of Rs. 30,000/- was awarded as compensation or enjoyment of amenities of life as also the permanent pain and agony caused to the claimant by his injuries, loss of disability which he was left with. This would clearly be an appropriate precedent to follow in the present case. Accordingly, the claimant must be held entitled to a similar sum under these heads.

8. Next is a claim for special damages relating to the cost of medical treatment, special diet and other incidental expenses. It has come in evidence in the testimony of AW 2, David A. Longfellow, that a sum of Rs. 1,291.40 was paid as hospital charges for the period that the claimant remained admitted in the hospital. There must undoubtedly have been other expenses too besides that of special diet that must have been prescribed for him. In the circumstances, it would be reasonable to assess such damages at Rs. 5,000/- considering also the fact that the claimant even after his discharge from the hospital had to remain in bed for several months.

9. The compensation payable to the claimant is accordingly hereby enhanced to Rs. 35,000/- 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. The liability of the Respondent-insurance company for the amount awarded shall be limited to Rs. 5,000/- . The driver and the owners of the bus shall, however, be jointly and severally liable for the entire amount awarded.

10. This appeal is accordingly accepted with costs. Counsel's fee Rs. 300/- .