
(1991) 01 P&H CK 0023

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 1219 of 1983

Gursharan Singh Sandhu

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-01-1991

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1991) 2 ACC 139 : (1991) ACJ 729 : (1991) 99 PLR 581

Hon'ble Judges : J.V. Gupta, C.J.; R.S. Mongia, J

Bench : Division Bench

Advocate : L.M. Suri, Ravinder Arora and Arun Kumar, for the Appellant; J.V. Yadav, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

R.S. Mongia, J.—The appellant was an Assistant Engineer, Class II in the Punjab State Electricity Board. He met with an accident with a Haryana Roadways bus on 25th March, 1972 at about 8 30 A.M. in front of the entrance of the Bus Stand, Chandigarh. He was going on a motorcycle when the bus of the Haryana Roadways struck against him. He was about 30 years of age at the time of the accident and was drawing Rs. 760/- per month as salary. He claimed compensation under the Motor Vehicles Act before the Motor Accident Claims Tribunal to the tune of Rs. 5,48 000/- on account of sustaining injuries in the accident. His claim application was, however, dismissed as being time barred, though it was found that the accident took place due to the rash and negligent driving of the driver of the bus. The Tribunal held that had the petition been filed in time, the appellant would have been entitled to recover Rs. 75,000/- as compensation from the respondents.

2. The claimant filed an appeal-F. A. O. No. 52 of 1977 in this Court. The learned Single Judge found that there are sufficient grounds for condoning the delay and held that the claimant was entitled to Rs. 1,25,000/- as compensation from the respondents along with interest at the rate of 10% per annum from the date of

filing of the claim application, i. e. 4th September, 1973. The learned Single Judge had awarded Rs. 1,25,000/- under the following heads :-

For loss of pay Rs. 10,000/- For immediate pain and shock Rs. 10,000/- For suffering due to multiple operations Rs. 10,000/- For permanent disfigurement Rs. 20,000/- For loss of future enjoyment Rs. 50,000/- For loss of future prospects in service Rs. 20,000/- For sundry expenses on diet etc. Rs. 5,000/-
Total : Rs. 1,25,000/-

The claimant felt dissatisfied with the judgment of the learned Single Judge and wanted further enhancement of the compensation, and, consequently, preferred the pretest appeal.

3. The learned counsel for the appellant submitted that the compensation awarded by the learned Single Judge was too meagre taking into consideration the injuries sustained by the claimant. He submitted that the learned Single Judge had not considered that the appellant had undergone as many as 14 operations, had spent about 600 days in the hospital for treatment and had the following disabilities:-

- (i) Total disfigurement of the stomach, legs and arms.
- (ii) 2-1/2 shortening of his leg.
- (iii) Ankle movement nil.
- (iv) Knee movement limited.
- (v) 50% of the heel chopped off as a result weight bearing area is reduced and the blisters occur below the heel while walking,
- (vi) Swelling occurs and legs pain while walking.
- (vii) Cannot sit properly in office,
- (viii) Cannot drive motor-cycle or car, cannot run, cannot play any game.
- (ix) Cannot climb go down a slope as ankle joint is fixed.
- (x) 40% physical disability.
- (xi) No compensation for pain and suffering.

4 The learned counsel submitted that the compensation should not be less than Rs. 3,75,000/-, inasmuch as for all times to come the appellant will almost remain on crutches His future chances in service have been affected. He cannot get married. There is permanent disability as far as the leg is concerned inasmuch as it has been shortened by 2-1/2". According to the learned counsel, the learned Single judge should have considered the above-mentioned aspects that future life and the future service career have been totally blasted and in real sense no amount of compensation in terms of money can compensate the loss that the appellant has suffered. The appellant referred to the medical report

(Exhibit A. 1) in which it is mentioned that the appellant had undergone 12 operations out of which three were relatively minor operations. The injuries noted were :-

(i) Crush injury of right leg with skin loss, and multiple fractures of both tibia and fibula

(ii) Fracture lower third of right femur.

It has been further observed in the report as under ;-

"He was in shock and was given urgent blood transfusion. After adequate resuscitation, an emergency operation was done at 4 p.m. on 25-3-1972 by Dr. S P. Kaushal. He fixed the femur fracture by an intra medullary nail. The multiple fractures of tibia were held in position by another intramedullary nail. The wound was cleaned and skin sutured over the tibial fractures. His Condition became critical at 1 a.m. on 26-3-1972 and improved after more blood transfusions.

On 27-3-1972 his condition again became critical due to fat embolism (globules fat from fracture sites circulating in the blood and blocking small vessels in the brain and elsewhere). He was in deep coma for some hours and recovered gradually by 1-4-1972.

By 3-4-1972 the leg wound was infected. Skin flaps over the fracture site were tense and necrosed. He was running a high fever and was mentally disoriented."

Skin was done and six major and three minor operations were done between July 1972 and June 1973. The doctor has further observed that the appellants has been a brave patient and survived three serious crises-service shock on 25-3-1972, fat embolism on 27-3-1972. and heavy infection in April 1972. With great fortitude he went through a series of major plastic operations to bring a large flap of skin from the abdomen and flank carried on the left wrist, to replace the extensive skin and scarring on the right leg.

5. Taking into consideration the grounds as enumerated above that for all times to come the appellant cannot lead a normal life his leg having been shortened; there being 40% disability, he cannot sit straight, his service career being affected, chances of marriage being almost nil and host of similar other considerations, we are of the view that an amount of Rs. 3.00.000/- as compensation would meet the ends of justice and would give some solace to the appellant.

6. Consequently, we allow this appeal and enhance the compensation to Rs. 3,00,000/-. Of course, it will carry the interest as given by the learned Single Judge, i.e. 10% from the date of the application till its payment However, there will be no order as to costs