

(1993) 04 P&H CK 0085
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 187 of 1985

Harbhagwant Singh Dhillon	Vs	APPELLANT
Haryana Roadways and Others		RESPONDENT

Date of Decision : 06-04-1993

Acts Referred:

Citation : (1993) 2 ACC 476 : (1995) ACJ 1278

Hon'ble Judges : N.K. Kapoor, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.K. Kapoor, J.—Harbhagwant Singh Dhillon boarded Haryana Roadways bus on 28.6.1981 from Chandigarh for going to Delhi. According to the claimant, the bus was packed with passengers and was being driven rashly and in a negligent manner. It is near the sales tax barrier, Ambala City, that a truck was seen coming from the opposite direction at a fast speed. Since the bus was being driven slightly on the right side it did not give sufficient space to the truck coming from the opposite side and so it struck its hind portion with the incoming truck. As a result of it, the claimant and another co-passenger, Sat Parkash Prasher, received injuries. The claimant along with Sat Parkash Prasher who became unconscious were taken to the hospital. Right arms of both these persons were amputated. The claimant became permanently disabled. He filed claim petition claiming a sum of Rs. 7,00,000/- as compensation.

2. This claim was contested by the respondents vide joint written statement raising preliminary objections on the ground of non-joinder of necessary parties, petition being insufficiently stamped and bar of limitation. On merits, it was stated that the bus was being driven at a slow speed and in a cautious manner. It was further stated that both these passengers who suffered injuries were equally negligent as they held their arms outside the window of the bus.

3. The Tribunal framed the following issues:

(1) Whether Harbhagwant Singh had received injuries on account of rash and negligent driving of Randhir Singh, driver, respondent No. 2, while driving bus No. HRM 8836 on 28.6.1981 at about 11.20 p.m.? OPP

(2) To what amount of compensation are the claimants entitled and from whom? OPP

(3) Relief.

4. On the basis of evidence led by the parties, the Tribunal came to the conclusion that the accident took place on account of rash and negligent driving of the bus driver on account of which the claimant received injuries and became permanently disabled. Accordingly, the issue No. 1 was decided in favour of the claimant. Under issue No. 2, the Tribunal assessed the compensation payable under the various heads as under:

Medical expenses Rs. 5,000/-

Loss of income at the rate of Rs. 1,000/- per month for 16 years Rs. 1,92,000/-

Compensation for artificial limb Rs. 1,460/-

Compensation for pain and suffering, etc. Rs. 20,000/- ----- Total Rs. 2,18,460/- -----

This amount was made payable by the owners and driver jointly and severally. Resultantly, the Tribunal awarded a sum of Rs. 2,18,460/- along with interest at the rate of 12 per cent per annum from the date of filing of the petition till its realisation with proportionate costs to the claimant.

5. It is the amount of compensation awarded by the Tribunal which is being challenged by the appellant. According to the appellant, the Tribunal has, indeed, erred in law in awarding such a meagre amount. According to the appellant, he was about 38 years of age at the time of accident. At that time he was working as a Joint Director (General), CRP Directorate, New Delhi, and was drawing a salary of Rs. 2,579/- per month as proved on record vide pay slip issued by the department. Not only this, the claimant was likely to improve his status as well as emoluments as he had unblemished service record. On account of this accident, the claimant has been totally incapacitated and so has almost become useless and, in fact, has to take the assistance of another person to look after himself. The claimant has suffered permanent disability of 80 per cent. The compensation awarded by the Tribunal is rather meagre.

6. Admittedly, the claimant was drawing salary of Rs. 2,579/- per month as per photocopy of pay slip, Exh. A-4. The doctors have assessed the permanent disability of the claimant at 80 per cent. There is statement of Col. D.S. Vohra, AW 6, to the effect that the patient met him for fixation of artificial arm. It has further been stated by him that the patient was keen to have Myo Electric Artificial Arm for better performance and so was advised that for this treatment he can go to Germany or England where such arms are available. The fixation of

this Myo Electric Artificial Arm would have cost the claimant about Rs. 80,000/-. One cannot also lose sight of the fact that on account of this permanent disability, the claimant had become almost incapacitated to perform any worthwhile job as his right hand had been amputated and for this reason he was relieved of his job. In the totality of the circumstances of the case, I assess the loss of income at Rs. 1,500/- per month and maintain the multiplier of 16 applied by the Tribunal. The Tribunal has assessed the medical expenses at Rs. 5,000 only. This too needs some enhancement. As per evidence on record, the claimant remained admitted in the P.G.I. from 29.6.1981 to 7.8.1981 in a private ward. Keeping in view the rent of the room of a private ward, medicines purchased and other allied expenses, a sum of Rs. 10,000 would be quite reasonable. As regards the compensation already assessed on account of artificial limb as well as for pain and suffering, etc., I find no ground to enhance the same. Resultantly, I modify the judgment of the Tribunal assessing the total amount of compensation payable under various heads as follows:

Medical expenses Rs. 10,000/-

Loss of income at the rate of Rs. 1,500/- per month for 16 years Rs. 2,88,000/-

Compensation for artificial limb Rs. 1,460/-

Compensation for pain and suffering, etc Rs. 20,000/- ----- Total Rs.
3,19,460/- -----

This amount of Rs. 3,19,460/- will carry interest at the rate of 12 per cent per annum from the date of filing of claim petition till the date of realisation. No costs.