

(1986) 04 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : F.A.F.O. No. 601 of 1982

Hardev Singh

APPELLANT

Vs

Sharnarathi Cooperative Transport Society Ltd. and Others

RESPONDENT

Date of Decision : 29-04-1986

Acts Referred:

Citation : (1988) ACJ 182

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

Bench : Single Bench

Advocate : V.K. Kataria, for the Appellant; L.M. Suri and J.S. Narang, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sodhi, J.—The claim in appeal here is for enhanced compensation. The claimant Hardev Singh sustained serious injuries when while driving his motor cycle he met with an accident with the bus PBM 5625 coming from the opposite direction. This happened on January 12, 1980 at about 6.45 p.m. near the bus stand of village Gonaina in Tehsil Muktsar. It was the finding of the Tribunal that this accident had been caused entirely due to the rash and negligent driving of the bus driver. A sum of Rs. 20,000/- was awarded as compensation to the claimants.

2. A reference to the material on record would show that as per the testimony of PW 5 Dr. Deepak Arora of the Christian Medical College & Hospital, Ludhiana, Hardev Singh had 8 injuries on his person at the time of his admission in the hospital on January 13, 1980. These being:

(1) Closed fracture shaft right femur.

(2) One 2 1/2" X 2 1/2" in size, bone deep lacerated wound on the antero-medial aspect of right knee.

(3) One 1 1/2 "X 1" in size lacerated wound, bone deep, on the antero-lateral

aspect of right knee.

(4) Comminuted fracture shaft distal third right tibia.

(5) Signental fracture shaft right fibula.

(6) Comminuted fracture shaft right radius and ulna.

(7) Gas gangrene right leg with septicaemia,

(8) One 1 1/2" X 1 1/2" in size bone deep lacerated wound over the dorsum of hand over the 3rd metacarpo-phalangeal joint and communicating with the joint.

3. According to Dr. Deepak Arora, injury Nos. 1, 4, 5, 6, 7 and 8 were all grievous in nature. Later, the right leg of Hardev Singh had to be amputated from above the knee. The amputation being in the middle third of the femur bone. The claimant PW 1 Hardev Singh deposed that he remained as an indoor patient in the hospital at Ludhiana for about five weeks where his leg was amputated. He suffered acute and severe pain for about two months after the accident. He had since got an artificial leg which he had purchased for Rs. 800/-. Now, he stated, he could only walk but at a slow pace and that too with the help of a stick. Further, it was his testimony that he had incurred an expenditure of Rs. 3,500/- on his treatment and in addition had spent Rs. 2,700/- on the repair of his motor cycle.

4. In order to establish the medical expenses incurred on his treatment, the claimant produced on record the receipts and other documents from the hospital Exhs. P/5 to P/18. The total expenditure as reflected there is over Rs. 1,500/-. Besides this, the claimant must undoubtedly have spent some money on special diet and for other miscellaneous purposes, in addition, as mentioned earlier, Rs. 800/- is the amount which he spent for an artificial limb. There is also a claim by him of Rs. 700/- spent by him as taxi charges for going to the hospital. In the circumstances, it would be fair and just to accept the medical expenses to have been to the tune of Rs. 3,500/- as claimed by Hardev Singh.

5. Next there was a claim for the damage to the motor cycle in this accident. The financial cost of it, the claimant sought to establish by the testimony of PW 6 Sat Pal and the bills Exhs. P/19 to P/22. It would be pertinent to note that the number of the motor cycle does not find mention on any one of them. Further PW 6 Sat Pal admitted that there were no counterfoils or carbon copies of these bills. What is more, his shop, where he is said to have repaired this motor cycle has since closed. This evidence would clearly not be safe to accept particularly when a look at the photographs of the scene of the occurrence would tend to suggest that the damage to the motor cycle was only of a minor nature. The Tribunal cannot, therefore, be faulted in denying compensation on this account.

6. The main claim for compensation rests upon amputation of the right leg consequent upon the injuries suffered by the claimant in this accident. The loss of the right leg undoubtedly carries with it severe handicaps both in day to day

living as also in any work that the claimant may be engaged in. What has come on record in this behalf is that Hardev Singh was an agriculturist who earned his livelihood by cultivation of land. It was also his testimony that he used to drive a tractor which now, on account of the amputation of his leg, he would be unable to do. There can be no manner of doubt that with this disability, there would indeed be a loss of earning for the claimant. Besides this, the claimant can also be expected now to have the burden of some costs of transportation which may not have been there otherwise.

7. There can, of course, be no precise measure in monetary terms of what could provide adequate recompense to the claimant for all the pain and suffering that he has had to undergo on account of the injuries suffered by him in this accident and the loss of enjoyment of life consequent upon the permanent disability caused to him by these injuries. Taking, however, an overall view of the circumstances and situation of the claimant, it would be fair and just to hold him entitled to Rs. 1,00,000/- for the permanent disability that he is now left with, loss of earnings and the costs of medical treatment besides the other heads as discussed above. As a precedent, reference may be made here to the judgment of this Court in *New India Assurance Co. Ltd. v. Tarsem Chand* F.A.O. No. 157 of 1981, decided on March 25, 1985, where a similar amount was awarded to a 24 years old claimant, who was a lathe operator, who too had suffered a similar injury, namely, amputation of the right leg. The compensation payable to the claimant is accordingly hereby enhanced to Rs. 1,00,000/- (Rs. one lakh only) 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.

8. The Respondents shall be jointly and severally liable for the compensation awarded.

9. This appeal is consequently hereby accepted with costs. Counsel's fee Rs. 500/-.