
(2014) 08 P&H CK 0116
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 2644 of 2000 (O and M)

Manil

APPELLANT

Vs

General Manager, Haryana Roadways and Others

RESPONDENT

Date of Decision : 20-08-2014

Acts Referred:

Citation : (2015) 2 ACC 624

Hon'ble Judges : Lisa Gill, J.

Bench : Single Bench

Advocate : Sushil Bhardwaj, Advocate, for the Appellant; R.D. Sharma, for the Respondent

Final Decision : Disposed off

Judgement

Lisa Gill, J.?This appeal has been filed by the appellant-Manil for the enhancement of the amount of compensation awarded to him by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as the "Tribunal") vide award dated 17th January, 2000 on account of the injuries suffered by him in an accident which took place on 10th July, 1997. The appellant, employed as a Conductor with the Haryana Roadways, was on duty on a bus bearing registration No. HR-05A-9801. The accident was caused due to the rash and negligent driving of another Haryana Roadways bus bearing registration No. HR-37-1640 by respondent No. 2 - Ishwar Singh. The driver of the bus, on which the appellant was on duty, succumbed to the injuries suffered by him in the accident and number of other persons travelling in the bus had received injuries. The appellant has suffered a fracture in the right leg and toe and his two teeth were also broken. An operation had to be performed to treat the fracture of his leg. As per the Disability Certificate, Ex. p.m., his disability was assessed to be 8% of the limb. He was having post-traumatic shortening of one inch of the right leg with non-union.

2. The Tribunal has awarded a sum of Rs. 55,300 as per the details given below:

3. It is contended by learned Counsel for the appellant that he is entitled to a much higher amount of compensation on account of the loss of income and earning capacity.

4. The learned Counsel has not been able to point out any evidence on record to show that the disability i.e., of the limb, has in any way affected the earning capacity of the appellant or that he is unable to carry on his vocation. It is an admitted fact that the appellant had continued to be in service with the Haryana Roadways and is still in service. The argument of learned Counsel for the appellant that in this case the loss of earning capacity of the appellant is 8% is not tenable. It has been held by Hon"ble Supreme Court in Syed Sadiq etc. Vs. Divisional Manager, United India Ins. Company, , that the Court has to determine as to how the disability has affected the earning capacity of the injured. In the present case, the appellant has been able to carry on his vocation without any hindrance. There is no evidence on record to show that the said disability has/is likely to cause any hindrance in the earning capacity of the appellant. The lump sum amount of Rs. 20,000 awarded by the Tribunal on account of the said disability is, however, enhanced to Rs. 25,000 and the appellant is also held entitled to Rs. 7,000 on account of loss of teeth.

5. Considering the fact that the appellant remained under treatment for nearly one year as an Out-patient, a sum of Rs. 5,000 is awarded as costs towards transportation and Rs. 1,500 towards attendant. The sum of Rs. 5,000 awarded by the Tribunal to the appellant on account of the pain and suffering is enhanced to Rs. 20,000.

6. The appellant is held entitled to the compensation as follows:

The total amount payable to the appellant, therefore, comes to Rs. 88,800 with interest at the rate of 6% per annum from the date of filing of the petition till the realization of the amount in excess of what has already been released to him.

7. No other point has been urged. With the said modification in the award dated 17th January, 2000 passed by the M.A.C.T., Karnal, this appeal stands disposed of.