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**(2011) 05 P&H CK 0121**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : FAO No. 2379 of 1998**

Navjot Singh

APPELLANT

Vs

Kuldip Singh and Others

RESPONDENT

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**Date of Decision :** 31-05-2011

**Acts Referred:**

**Citation :** (2011) 05 P&H CK 0121

**Hon'ble Judges :** K. Kannan, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

K. Kannan, J.—The appeal is against the dismissal of the petition claiming compensation for injuries suffered in a motor accident.

The contention of the Petitioner was that when he was going on his motor cycle on 30.3.1994 along with the D.C.road, Hoshiarpur. When he had reached at a road junction, he stopped at the red signal and when there was a green signal, he started when the jeep driven by the first Respondent coming from the opposite direction drove against him and crushed his leg. The written statement was one of the denial of accident itself but at the time of trial, the Appellant was cross examined on the aspect of when he started the vehicle at the signal. RW-1 gave evidence to the effect that when he reached the Government College Chowk a motor cyclist came from the side of the Government College and struck against his jeep. His contention that he was driving his jeep on the left side of the road and at the time when he proceeded there was a green signal. It was the motor cyclist who had come from the Government College side when there was still a red light. The Tribunal purported to undertake a minute perusal of the evidence, and the Court observed that the counsel for the claimant when he cross examined the Respondent suggested to him that there was no green or red light "but there was a twinkling light of yellow colour." I do not see how there is a contradiction to the appelllant's own case. It is one thing to state that the Appellant had started after stopping at the signal when there was green light to

go but quite another to make a suggestion to the Respondent that there was a twinkling of amber on his side, though he was himself contending that there was a green light to proceed and there was red light in the direction where the Petitioner was to proceed. A case where there was admittedly a collision and the Appellant had injuries on his leg could not have been thrown over board on realistic appreciation of evidence by the Tribunal. I set aside the finding and hold the driver of the jeep was responsible for the accident. The Tribunal must have seen that the Respondent was suggesting up a plea of no accident but he did not take courage to stand by his version at the trial and was only trying to explain that he was not guilty but the motor cyclist was. I would find no virtue in the defence to discard the Appellant's version.

2. As regards the quantum, the Petitioner had produced evidence to show that he had fairly a long period of hospitalization and the injuries with serious soft issue damage required reconstruction by surgical reduction of the fracture and by skin grafting. He had 83 days of hospitalization at various times and had undergone seven surgeries. The doctors who treated him were examined as PW-2 and PW-

3. The medical bills showed that the accident took place on 20.3.1994 and he had been taking treatment extending up to 17.10.1995 for nearly a year and six months. For the various phases of hospitalization, I would make provision for attendant charges, special diet and transportation at Rs. 10,000/-, Rs. 5,000/- and Rs. 10,000/- respectively. The doctors had assessed him for disability at 50% but stated that he required support while walking by crutches which I would understand as a temporary disability. The permanent disability could have a bearing to difficulty in walking in long stretches due to stiffness in the ankle and soft issue damage. I have no evidence to suggest that 50% functional disability in the leg could have any serious impact in his future earning skills. For prolonged hospitalization and surgery, I will provide for Rs. 25,000/- towards pain and suffering and towards the 50% disability, for the accident has taken place in the year 1994, I will provide for Rs. 50,000/- which I would hold as going towards the loss of amenities. The Petitioner claimed that he has lost one year of study since he had suffered accident in March with impending exams for which I would estimate Rs. 25,000/- as the resultant loss. The over all compensation will be as Rs. 3,29,500/- tabulated below:

Age

30.3.1994 to 17.10.1995

Occupation

Claimants

S.No.

Heads of Claim

Tribunal

High Court

1

Medicines

Rs. 2,04,500/-

2

Attendant charges

Rs. 10,000/-

3

Special diet

Rs. 5,000/-

4

Pain and suffering

Rs. 25,000/-

5

Transport

Rs. 10,000/-

6

Disability

50%

7

Loss of amenities

Rs. 50,000/-

8

Loss of year in studies

Rs. 25,000/-

Total

Rs. 3,29,500/-

3. The amount awarded by the Tribunal shall carry interest at the rate of 7.5% per annum from the date of petition till the date of payment. The liability shall be

on the Respondents jointly and severally. The award is set aside and the appeal is allowed in the above terms.