

(2011) 02 P&H CK 0373
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 851 of 1993

Onkar Singh

APPELLANT

Vs

Geeta Ram and Another

RESPONDENT

Date of Decision : 22-02-2011

Acts Referred:

Citation : (2011) 02 P&H CK 0373

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The appeal is against the dismissal of the petition for compensation for amputation suffered by the claimant. He was a workman under the owner of the truck which was involved in the accident. It was a case where the driver of the truck had dashed against a stationary truck with iron rods protruding from it. The accident had taken place in the thick of the night and evidently, it was a case of error in judgment of the driver of the truck in ramming against a stationary truck.

2. The attempt at the trial was to show that he was a workman employed under the owner of the truck. It came through the evidence that the driver and cleaner were some other persons and the driver had himself died in the accident. Even if he had been a workman, it cannot be said that he was travelling as workman in the course of his duty and the Tribunal found that he was a passenger going from some other place along with two more persons who got into the truck on the way. If the negligence of the driver of the truck was an established fact, then the claim could be still successfully prosecuted against the owner who is vicariously liable for the act of his driver. The owner of the truck Geeta Ram who is arrayed as Respondent No. 1 ought to have been made liable for the accident; even if the Tribunal found that he was not a workman to whom the benefit under the Workmen Compensation Act could be attracted to make the insurer liable. The claim ought to have been awarded against the owner of the vehicle taking the

claimant as passenger in the truck.

3. There was evidence to the effect that he had a fairly long spell of hospitalization from 2.4.1980 to 14.5.1980. He had produced bills to the extent of `7900/-and the Doctor who had treated him gave evidence to the effect that he had been operated thrice. I have attempted to standardize the method of assessing the compensation for injuries to effect it fully the pain and suffering component as well as the loss of amenities for a person who suffers privation of organ such as amputation of leg in Madan Lal Papneja v. State of Haryana and others, FAO No. 422 of 1993 dated 12.11.2010. I will tabulate the compensation as below that would become payable and make Respondent No. 1 liable for the same.

Injury Cases

Age:

Period of Hospitalization 2.4.80 to 14.5.80

Occupation & Income -

500

Heads of Claim

Tribunal

High Court

Injury Cases

Sr. No.

Amount `

Amount `

1.

Loss of income from to

2.

Medical Expenses:

(i)

Medicines

7900

(ii)

Hospital Charges

(iii)

Attendant Charges

5000

(iv)

Special Diet

5000

3.

Transport

-

5000

4.

Pain & Suffering - per fracture/per surgery

25000

5.

Disability

70%

70%

6.

Loss of earning capacity

70%

70%

Income x % of loss of earning power x multiplier

75,600

7.

Reduction in life expectancy/Loss of amenities

50,000

8.

Loss of prospect of marriage

25,000

Total

1,98,500/

4. This amount shall also bear interest @ 7.5% from the date of petition till the date of payment.
5. The right of enforcement of the award shall avail to the claimant against Respondent No. 1 only and the insurance company shall stand exonerated.
6. The appeal is allowed to the above extent.