

(2013) 08 P&H CK 0840
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 1564 of 2011 O and M

Pardeep Kumar

APPELLANT

Vs

Narender Singh alias Nanha and Others

RESPONDENT

Date of Decision : 16-08-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2013) 08 P&H CK 0840

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : Ram Pal Verma, for the Appellant; Rohit Goswami, Advocate for Mr. Naveen Kapoor, Advocate for Respondent No. 3-Insurance Company, for the Respondent

Final Decision : Allowed

Judgement

Vijender Singh Malik, J.—This is an appeal by claimant seeking enhancement of compensation. The claimant- appellant brought a claim petition u/s 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries suffered by him in a roadside accident that took place on 29.7.2008 in a sum of Rs. 12.00 lakhs. Learned Motor Accidents Claims Tribunal, Jhajjar (for short, "the Tribunal") allowed the claim petition vide award dated 10.8.2010 in a sum of Rs. 1,90,000/-. The claimant had been a constable with Delhi Police. He suffered injuries and remained hospitalized and had spent more than 300 days of his leave in his treatment. He has been denied promotion on account of the accident.

2. The claim petition has been resisted by the respondents. All the averments of the claimant have been denied in this case.

3. Though, taking it to be a case of 50% disability, learned Tribunal found no ground to assess compensation on account of loss of future income due to permanent disability. According to him, despite disability, the claimant is in service and is getting his pay regularly. Learned Tribunal has, however, assessed

a sum of Rs. 25,000/- for no reason, Rs. 1.00 lakh for permanent disability, Rs. 25,000/- for expenses on medical treatment. Learned Tribunal has assessed a sum of Rs. 20,000/- for special diet and attendant charges and another sum of Rs. 20,000/- for pain and suffering.

4. Learned counsel for the appellant has contended that though, the claimant has not lost anything on his future income because he is still in service, yet he will be denied promotion on account of his physical disability. According to him, no amount was awarded as compensation for the leave spent by the claimant in his treatment. He has also submitted that no amount was also assessed as compensation towards transportation expenses.

5. Learned counsel for respondent no. 3 has submitted, on the other hand, that adequate compensation has already been assessed and awarded in favour of the claimant. According to him, there is no evidence on record to prove that promotion would be denied to the claimant-appellant on account of the disability.

6. A sum of Rs. 25,000/- has been awarded in para No. 14 of the award. The said paragraph does not speak of any head under which this amount has been awarded. This amount can be taken as the expenses incurred on transportation of the claimant during his treatment.

7. The major aspect on which the claimant is entitled to further compensation is loss of leave during treatment. He has spent about 325 days leave in his treatment which he would have utilized in some other connection or would have got salary for the said period. It has not come on the record as to what was the salary of the complainant. He being a constable, his salary can be taken at least at Rs. 10,000/- per month. So, leave for 11 months has been spent by the claimant in his treatment. Taking his monthly salary at Rs. 10,000/-, he will be taken to have lost a sum of Rs. 1,10,000/- on this account. Thus, a sum of Rs. 1,10,000/- is allowed to the claimant in this regard.

8. Though, the claimant is still in service and is getting his salary and there is no evidence to prove that he will lose his promotion on account of this disability, yet it is a fact evident on record that he will lose on future enjoyment of life on account of the disability. Taking the disability at 50%, I assess a sum of Rs. 50,000/- as compensation for the loss of future enjoyment of life.

9. In view of this discussion, I find a sum of Rs. 1,60,000/- to be the amount by which the compensation awarded by the Tribunal deserves to be enhanced. In this way, a sum of Rs. 3,50,000/- is the amount found to be the compensation payable to the claimant-appellant. Consequently, the appeal is allowed enhancing the compensation from Rs. 1,90,000/- to Rs. 3,50,000/- with other terms regarding rate of interest etc. appearing in the award of the Tribunal remaining the same.