(2011) 03 P&H CK 0262

In the Punjab And Haryana At Chandigarh

Case No : FAO No''s. 2941 and 2967 of 1999

Rohtash	APPELLANT
Vs	
Ran Singh and Others National Insurance Company Ltd. Vs Rohtash and Others	RESPONDENT

Date of Decision : 17-03-2011

Acts Referred:

Citation : (2011) 03 P&H CK 0262

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—Both the appeals are connected. FAO No. 2941 of 1999 is by the claimant for enhancement of compensation for the injury resulted in amputation of his leg below the waist and above knee. The Doctor had assessed the disability at 85%. He was said to be an agriculturist aged 25 years and also doing dairy farming earning Rs. 10,000/- per month. The Tribunal awarded Rs. 25,000/- towards pain and suffering.

2. The claimant had a treatment at PGI Rohtak from 8.7.1995 to 24.7.1995. I will assess the compensation taking note of the fact that his native village was about 72 kms. from the hospital and he ought to have spent money for transportation and attendant charges. I will take 85% disability which had been assessed as resulting in also 80% loss of earning capacity as provided under Schedule II of the Workmen Compensation Act.

I will tabulate the compensation as follows:

Injury Cases

Age:

Period of Hospitalization 8.7.95 o 24.7.95

Occupation and Income - Agriculturist

Heads of Claim

Tribunal

High Court

Sr.No.

Amount ?

Amount ?

1.

Loss of income from to

15,000 p.a.

15,000 p.a.

2.

Medical Expenses:

(i)

Medicines

5000

(ii)

Hospital Charges

(iii)

Attendant Charges

2500

(iv)

Special Diet

2500

3.

Transport

2500

4.

Pain and Suffering - per fracture/per surgery

25,000

25,000

5.

Disability in %age

85%

85%

6.

Reduction in life expectancy

7.

Loss of earning power in %age

80%

8.

Income x % of loss of earning power x multiplier

2,04,000

9.

Loss of amenities

25,000

Total 1,25,000/-

2,81,500/-

3. I have assessed the loss of earning capacity taking the income to be Rs. 15,000/- per annum on account of unsubstantiated evidence that he had Rs. 10,000/- as income as an agriculturist per month. The additional amount over what has already been awarded by the Tribunal shall attract interest @ 6% from the date of petition till the date of payment.

4. The liability shall only be on the insurance company on account of the fact that there had been renewals of licence on two occasions and the owner himself had given evidence to the effect that he had verified the licence and believed it to be correct. The insurance company was making a plea that original issue of licence was not genuine. I will hold that bona fide belief of the owner as spoken to by him will give him a right of indemnity in the light of the decision laid down in National Insurance Co. Ltd. Vs. Swaran Singh and Others, .

5. The appeal by the claimant is allowed and the appeal filed by the insurance company is dismissed finding the liability to be properly fastened in the insurer.

