

(1995) 01 P&H CK 0040
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 264 of 1992

State of Haryana and Another	Vs	APPELLANT
Lal Chand and Another		RESPONDENT

Date of Decision : 23-01-1995

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1995) ACJ 1044 : (1995) 110 PLR 341

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : I.C. Sethi, for the Appellant; D.R. Trikha, for the Respondent

Final Decision : Dismissed

Judgement

Amarjeet Chaudhary, J.—This appeal is directed against the award of the Motor Accident Claims Tribunal, Sirsa, which on a claim petition had awarded a sum of Rs. 80,000/- as compensation to the claimants with 12% interest from the date of filing of the claim petition on account of injuries sustained by him in a road accident.

2. The award has been assailed on the ground that the Truck No.HYC-7542 belonging to P.W.D. (B & R) Department, State of Haryana was not involved in the accident and as such, the liability to pay compensation has been wrongly fastened.

3. Learned counsel for the appellants argued that Tribunal had wrongly held that the accident had occurred due to rash and negligent driving of Prithvi Raj, driver of truck No.HYC-7542. Learned counsel further argued that the Tribunal had wrongly awarded compensation of Rs. 10,000/- on expenses on treatment including special diet, Rs. 35,000/- on account of pain and suffering and another Rs. 35,000/- on account of loss of income.

4. After having perused the record that the Motor Accident Claims Tribunal, Sirsa had decided three claim petitions No. 2, 10 and 11 and in all these claim

petitions, the Tribunal had returned a categoric finding on the basis of evidence, adduced by the parties, that the accident was caused due to rash and negligent driving of driver of Truck No.HYC-7542. The said finding has been assailed on the question of involvement of vehicle in this case. Since the said finding has not been challenged in any appeal arising out of the common award, the same has become final.

5. In this view of the mater, no contrary view in the matter can be taken.

6. Dr. Raj Kumar, Medical Officer, G.H. Sirsa, PW-5 has stated that Lal Chand remained in the hospital from 22.2.1989 to 27.12.1989 and again he visited the hospital on 2.3.1990 for the operation of fracture of tibia and he was operated on 8.3.1990 and was discharged from the hospital on 19.3.1990. In this manner, Lal Chand remained in the hospital for about 24 days in all, Dr. Raj Kumar has further stated that Lal Chand was having 35% disability due to tibia and fracture of radius bone. He was unable to do the agriculture work and could not Walk without any support. This doctor has further stated that during the period Lal Chand remained in the hospital, he must have spent Rs. 4,000/- on his treatment.

7. As mentioned in the earlier part of the judgment Lal Chand remained in the hospital for about 24 days in all. The conclusion can be safely drawn that Lal Chand must have spent Rs. 5,000/- on his medical treatment.

8. Keeping in view the percentage of disability and pain and suffering, this Court is of the view that the compensation awarded is just and reasonable. The appeal is dismissed. No order as to costs.