

(1992) 12 P&H CK 0010

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Raj Pal Singh

APPELLANT

Vs

Surinder Jain and Others

RESPONDENT

Date of Decision: Dec. 8, 1992**Citation:** (1993) 1 ACC 710**Hon'ble Judges:** Amarjeet Chaudhary, J**Bench:** Single Bench

Judgement

Amarjeet Chaudhary, J.

Shri Raj Pal Singh had filed a claim application before the Motor Accident Claims Tribunal, Ambala, hereinafter referred to as the "Tribunal" for the injuries sustained by him in an accident. The Tribunal awarded a sum of Rs. 40,000/- with 12% interest as compensation to the appellant.

2. Being dissatisfied with the award of the Tribunal, the appellant has preferred the present appeal.

3. The background which led to the filing of the claim application is that on 10.8.1983 the appellant was going to Panchkula on the scooter bearing No. PB V 2563 which was being driven by his friend Shri Aman Dahiya and he was sitting on the pillion seat of the said scooter. When Aman Dahiya approached the crossing of Sectors 7, 8, 17 and 18 of Panchkula, he observed a jeep bearing registration No. CHA 2542 coming from the opposite direction which took a wrong side as a result of which his friend Aman Dahiya by way of abundant caution stopped his scooter, but the driver of the jeep Surinder Jain, respondent No. 1, who was talking that time with the other occupants of the jeep and driving the jeep in rash and negligent manner struck with the stationary scooter which resulted in causing grievous injuries to the appellant as well as Aman Dahiya. The appellant and his friend Aman Dahiya were taken to General Hospital, Sector 16, Chandigarh by some persons for treatment. On X-ray examination, it was found that the appellant had suffered a fracture on the left leg and some injuries on the body. The appellant's fracture was

put under plaster and he remained admitted in the Hospital till his plaster removed on 18.11.1983.

4. It is the case of the appellant that he had to use the crutches while going to the Court. He had to hire taxi while visiting the Hospital for medical check up and had to take assistance of some attendant. As a result of confinement to bed, the monthly earning of the appellant has reduced considerably. He started practice at Kurukshetra in the year 1982 and he used to earn Rs. 2000/- per month from his practice as a lawyer. As such, he had suffered a great deal in his practice. The appellant has suffered permanent disability as there is shortening of leg resulting in slighting limping.

5. It is the further case of the appellant that the limping of his left leg has resulted in the incapacitating of other physical jobs and family activities. Apart from this, he experiences pain as he has to stand constantly in the Court for the purpose of arguments. All these developments have caused mental agony.

6. The matter was contended by the respondents.

After examining the matter, the Tribunal returned a finding that the appellant suffered injuries in the accident due to rash and negligent driving of jeep No. CHA 2542 driven by Surinder Singh, respondent No. 1. Dr. Gurcharan Singh medically examined the appellant. He while appearing as AW-9, had stated that he might have spent Rs. 1,000/- on X-ray and medicines etc. He further deposed that in the accident cases, generally nourishing diet is prescribed by the Doctors. According to the Doctor, the appellant has suffered a permanent disability by way of shortening of his left leg by one centimeter. In his cross-examination, this witness had denied the suggestion that the permanent disability is curable. However, he deposed that chance can be taken by way of operation of shortening the other leg but that operation has its own complications.

7. The learned Tribunal on the consideration of the medical evidence, awarded lumpsum Rs. 40,000/- as compensation with 12% interest to the claimant-appellant.

8. Mr. Raj Pal Singh appearing in person has contended that in view of the statement of Dr. Gurcharan Singh, his disability is of permanent nature and he feels handicapped in attending his Court work as movements have been restricted. He has further contended that his income has substantially reduced after the accident. As such the compensation awarded by the Tribunal is adequate. The appellant claims for the loss of income, expenses incurred for special diet and medical treatment.

9. In the instant case, the occurrence of accident and the mannerism in which the appellant sustained injuries is not in dispute. The finding of negligence recorded against the Driver does not call for any interference in the appeal.

10. The question which requires consideration is with regard to quantum of compensation payable to the appellant-claimant keeping in view the nature of injuries sustained by him and other connected factors.

11. Relying heavily on Swatantra Kumar Lamba and Anr. v. Sheila Didi and Anr. 1986 ACJ 74 the appellant Raj Pal Singh had prayed that the same compensation be awarded to him as awarded to the claimant Arun Nehra, In my view, the ratio of the decision rendered in the aforesaid case cannot be applied to the case in hand. The claimant in that case had incurred heavy expenses on medical treatment. His movements of ankle were restricted and dorsiflexion was limited to half. The claimant could not attend to his professional work for 10 months. As such the claimant in that case was awarded Rs. 5,600/- for medical expenses and transportation, Rs. 4800/- for special diet, Rs. 20,000/- for loss of income, Rs. 96,000/- for loss of earning capacity and Rs. 40,000/- for pain, suffering and loss of pleasures of life. In the instant case, the appellant's confinement to bed was only for three months. Thereafter he did not receive any treatment. The appellant has not been able to prove that he had incurred huge amount on medical treatment and transportation of there was loss of professional income.

In view of the statement of Dr. Gurcharan Singh (AW-9) that the appellant had suffered a permanent disability by way of shortening of his left leg by one centimeter and the permanent disability is incurable Raj Pal Singh, appellant is awarded Rs. 75,000/- lumpsum as compensation with 12% interest in addition to what has been awarded by the Tribunal.