

(2001) 03 P&H CK 0167

High Court Of Punjab And Haryana At Chandigarh

Case No: F.A.O. No. 468 of 1997

The Oriental Insurance Company

APPELLANT

Vs

Surat Singh

RESPONDENT

Date of Decision: March 5, 2001

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166, 173
- Penal Code, 1860 (IPC) - Section 279, 337, 338

Citation: (2001) 3 RCR(Civil) 675

Hon'ble Judges: R.L. Anand, J

Bench: Single Bench

Advocate: Mr. Subhash Goel, for the Appellant; Mr. S.K. Chawla, for the Respondent

Final Decision: Dismissed

Judgement

R.L. Anand, J.

Oriental Insurance Company and Amarjit Singh, have filed this FAO No. 468 of 1997 against Shri Surat Singh (claimant/injured) and Shri Prithi Ram, driver, and it has been directed against the award dated 8.11.1996, passed by the Court of Motor Accident Claims Tribunal, Faridkot, who, awarded a sum of Rs. 4,44,000/- to the claimant Shri Surat Singh with interest at me rate of 12% per annum from the date of the filing of the petition i.e. 16.7.1990, till the date of payment and if was directed by the Tribunal that the respondents now appellants shall pay jointly and severally the amount of compensation.

2. The brief facts of the case are that claim petition was filed by Shri Surat Singh against Shri Amarjit Singh, Prithi Ram and the Oriental Insurance Company Ltd alleging that on 13.1.1990, when he was driving the bus and had hardly covered a distance of about 2 kms from village Aulakh, a truck bearing No. PBX-2475 driven by Shri Amarjit Singh, respondent, came at a very high speed and struck against the right side of the bus driven by the claimant. The driver of the truck was previously

known to the claimant. It was loaded with Bajri. The truck hit against the driver seat, as a result of that the claimant sustained injuries. He became unconscious. Shri Amarjit Singh appellant connived with the police and got a false case registered against the claimant. It is alleged by the claimant that the driver of the truck did not blow the horn. He did not give the lights. The light of the truck was not on it spite of the fact that there was a fog. The speed of the truck was very high. The accident had been caused on account of the negligence of the driver of the truck. The claimant Surat Singh received multiple injuries and he remained under treatment of various doctors. He was under the treatment of the doctor at the time of the filing of the claim petition. His both legs were fractured and one leg has to be amputated. He had spent Rs. 60,000/- on the treatment. The treatment of the claimant is still going on. It has been opined by the doctor that the claimant would confine to the bed till his life. He is not in a position to work as a driver. At the time of the accident he was employed as a driver in Rajas-than State Road Transport Corporation, Sri Ganganagar and was getting Rs. 2,000/- per month as salary and other benefits. The claimant was 43 years old at the time of the accident. With these broad allegations the claimant claimed compensation of rupees eight lacs.

3. Notice of the claim petition was given to the respondents who filed the reply and denied the allegations. It was pleaded by the respondents that the claim petition is not within limitation. The accident has been caused by Shri Surat Singh against whom, a case under Sections 337/338/279 IPC was registered. It was also pleaded by the Insurance Company that the drivers of both the vehicles were not holding the valid driving licence and that it is not responsible to pay any compensation.

4. On the pleadings of the parties Tribunal framed the following issues :-

1. Whether the application is within time ? OPA

2. Whether the claimant sustained injuries on 13.1.1990 as a result of rash and negligent driving of Truck No. PBX 2475 driven by respondent No. 1 ? OPA

3. To what amount of compensation, the claimant is entitled and from whom ? OPA

4. Whether the claimant was himself liable for this accident ? OPR

5. Relief.

The parties led oral and documentary evidence in support of their case and on the conclusion of the proceedings, issue No. 1 was decided in favour of the claimant, issues No. 2 and 3 were also decided in favour of the claimant while issue No. 4 was decided against the respondents and finally the claim petition was partly allowed and a sum of Rs. 4,44,000/- was awarded by way of compensation besides interest as I stated in the earlier portion of the judgment.

5. Aggrieved by the award, the present appeal has been filed by the Insurance Company and Shri Amarjit Singh.

6. I have heard Shri Subhash Goel, Advocate, appearing on behalf of the appellants and Shri S.K. Chawla, Advocate, appearing on behalf of the respondents.

7. The only point which was urged before me is that the compensation awarded by the Tribunal is on the higher side, Is it so, is a point to be adjudicated by me in the light of the evidence which has been produced before the Tribunal. It is the common case of the parties that Shri Surat Singh was working as a Bus Driver in Rajasthan State Road Transport Corporation and as per the certificate mark "A" the total emoluments was Rs. 1345/-. His basic pay was Rs. 940/-DA was Rs. 320/-. It was come in the statement of Shri Surat Singh while appearing as AW1 that he used to earn a sum of Rs. 2,000/- which consisted of his salary and over time allowance etc. Over time allowance has not been shown in mark A. Therefore, I can reasonably infer that the injured must be earning Rs. 2,000/- per month and there is no exaggeration in his statement.

8. With regard to the extent of damage. Let us examine the evidence of the injured. It has come in his statement as follows :-

"I am present in the Court with one of my right leg amputated from upper side of knee near thigh. My both the legs were crushed. My left leg has also become worthless because its nerve system has failed. I am now absolutely unfit to do any work. I cannot walk or move. I can only scrawl. My department told me that I am under suspension but no suspension allowance or any other amount is being paid to me. After three months of my accident. I was paid suspension allowance just for three months. I am not literate. I am disabled to do any sort of work. I am taken for answering call of nature and urination etc. by my wife. I have got one daughter who is aged about 13 years and one son aged about 6 years and a wife. They all were dependents upon me. We have got no source of livelihood now. My salary was the only source to feed them. I have spent of Rs. 60,000/- or Rs. 70,000/- on my treatment. Even now I am taking treatment. My department did not reimburse the medical expenses incurred by me. I have to take special diet owing to the injuries suffered by me in accident." The statement of Shri Surat Singh has been demolished by the lawyer of the opposite side.

9. In these circumstances, the petitioner is entitled to the compensation on account of loss of limb, pains and sufferings, loss of enjoyment of life and loss of income, besides the actual medical expenses incurred by him. The statement of AW1 which I have quoted just above, in commas, would show that claimant has now a living soul on papers. He is not in a position to enjoy the life. His one leg has been amputated from thigh point. Now he is totally dependent upon the mercy of others. The claimant must have suffered a lot of pains and sufferings. With the amputation of his leg, he must have felt the loss of enjoyment. The claimant was earning Rs. 2,000/- per month. He was aged 43 years at the time of the accident. Therefore, he would have served in the ordinary course for 15 years more and thereafter, he would have got the pension from the Department. At the moment he is not enjoying

anything.

10. In my opinion the compensation of Rs. 4,44,0007-which was been awarded by the Tribunal, "cannot be held to be unjust and excessive. Therefore, I do not want to interfere in the finding of the Tribunal, though, in my opinion, the award given by the Tribunal is not elaborate while dealing with aspect of awarding compensation. Thus, there is no merit in this appeal and the same is hereby dismissed with no order as to costs.

11. Appeal dismissed.