

(2012) 11 P&H CK 0141

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 5416 of 2011

Nirmal Singh

APPELLANT

Vs

Sughar Singh and Others

RESPONDENT

Date of Decision: Nov. 15, 2012

Hon'ble Judges: M. Jeyapaul, J

Bench: Single Bench

Advocate: Sushma Singh, for the Appellant; Vinod Gupta, Advocate for Respondent No. 3-Insurance Company, for the Respondent

Judgement

M. Jeyapaul, J.

The injured-claimant who sustained 100 per cent disability on account of the spinal injury he suffered in the motor accident that took place on 27.7.2009, has preferred the present appeal praying for enhancement of compensation. Claimant Nirmal Singh was 24 years old when the accident took place. He was hospitalized for treatment from 27.7.2009 to 22.11.2009. He had spent a sum of Rs. 5,68,087/- towards medical treatment.

2. PW-2 Dr. Ashok Saini has deposed based upon the disability certificate Exhibit P-2 that the Medical Board who subjected the appellant for examination, assessed the disability of the appellant at 100 per cent on account of the cervical injury with paraplegia. It is his deposition that the said disability would affect the performance of the whole body. With such a disability, the patient was unlikely to walk and have control over his bladder function, it was observed by PW-2. The nature of the injury sustained by the appellant was also spoken to by PW-5 Dr. Ravi Ranjan and PW-6 Dr. Neeraj Narain Singh, Medical Officer attached to the Department of Orthopaedic and Spine Services, Indian Spinal Injury Centre, New Delhi.

3. Based upon the evidence of PW-8 Hari Mohan who has deposed that a sum of Rs. 22,500/- was paid for five months towards commission to the appellant by the company where he was working as Marketing Executive, the Tribunal assessed the monthly income of the appellant at Rs. 4500/- per month. The Tribunal adopted a

multiplier of 17 to arrive at the loss of income. Nothing was awarded towards loss of income during the period of treatment. A sum of Rs. 50,000/- was awarded towards transportation, special diet and attendant charges. A sum of Rs. 40,000/- towards pain and suffering and a sum of Rs. 9,18,000/- towards 100 per cent disability were awarded. Nothing was awarded towards loss of amenities and loss of expectation of life.

4. Learned counsel appearing for the appellant would vehemently submit that a sum of Rs. 10,000/- should have been arrived at as monthly income based upon the evidence produced before the Tribunal. It is his further submission that the Tribunal has wrongly adopted multiplier of 17 instead of 18 to arrive at loss of income of the injured Nirmal Singh who was 24 years old at the time of accident. He would also submit that the appellant is entitled to compensation towards loss of earnings during four months" period of treatment in the hospital as an in-patient. For the pain and suffering, a substantial amount will have to be awarded considering the fact that the appellant would suffer throughout his life on account of the spinal injury which immobilized him. He would further submit that the appellant is entitled to compensation towards loss of amenities and loss of expectation of life.

5. Learned counsel appearing for the 3rd respondent-insurance company would vehemently submit that the Tribunal has rightly awarded just compensation based upon the materials produced before it.

6. As regards the medical treatment taken by the appellant, the Tribunal has rightly awarded a sum of Rs. 5,68,087/- based upon the bills produced before it. But it is found from the evidence of PW-2 Dr. Ashok Saini, PW-5 Dr. Ravi Ranjan and PW-6 Dr. Neeraj Narain Singh that the spinal injury sustained by the appellant had completely immobilized him. The evidence of PW-2 in the background of the disability certificate Exhibit P-2 issued by the Medical Board, would establish that the injured-claimant had sustained 100 per cent disability which would adversely affect the performance of the whole body. Neither can he walk nor would he have control over his bladder function throughout his life. His dreams in life have been completely shattered and on account of which, there is loss of expectation of life. The amenities which he would have enjoyed during his life time have been completely deprived of by the unfortunate accident that left him with 100 per cent permanent disability. Therefore, towards loss of amenities and towards loss of expectation of life, atleast a sum of Rs. 2,00,000/- will have to be awarded.

7. The appellant will have to be taken care of atleast by an attendant throughout his life. At least a minimum sum of Rs. 2000/- per month will have to be paid to an attendant for atleast 20 long years. Therefore, towards attendant"s charges, sufficient compensation will have to be awarded by the Court.

8. The appellant on account of the spinal injury had encountered pain and suffering during the time of accident. He has also to suffer pain and mental agony throughout

his life. At least, a sum of Rs. 1,00,000/- will have to be awarded on that count.

9. In view of the above, a sum of Rs. 5,68,087/- towards medical treatment, Rs. 9,72,000/- (4500 x 12 x 18) towards loss of income on account of 100 per cent disability, Rs. 18,000/- towards loss of earning during four months' treatment as an in-patient, Rs. 4,80,000/- (2000 x 12 x 20) towards attendant's charges, Rs. 2,00,000/- towards loss of amenities and loss of expectation of life, Rs. 50,000/- towards transportation and special diet and Rs. 1,00,000/- towards pain and suffering, are awarded. Thus, over and above the compensation awarded by the Tribunal, a sum of Rs. 13,80,087/- is awarded with interest at the rate of 7 1/2 per cent per annum from the date of filing the claim petition till realization. The rate of interest determined by the Tribunal on the amount awarded by it stands sustained. With the above modification in the quantum of compensation, the appeal is partly allowed. No costs.