

(2014) 07 P&H CK 0799

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 1007 of 1995

Rattan Singh

APPELLANT

Vs

Hasandin

RESPONDENT

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Date of Decision: July 21, 2014

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Anil Kumar Rana, Advocate for the Appellant; Lalit Garg, Advocate for the Respondent

Final Decision: Allowed

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#### Judgement

K. Kannan, J.

The appeal is for enhancement of compensation for injuries suffered in a motor accident that took place on 8.7.1992. He was 49 years of age and he was a Patwari earning Rs. 1796/- per month at the relevant time. He had been taking treatment in three hospitals and the period of hospitalization was said to be 10 days. He had a spinal injury that resulted in foot drop and the disability was assessed at 13%. The Tribunal took the income at Rs. 2000/-, took the disability at 13% as also causing 13% loss of earning capacity and assessed Rs. 37,440/- towards loss of earning capacity. The Tribunal provided also for loss of income and total compensation assessed was Rs. 60,000/-.

2. Learned counsel appearing on behalf of the appellant has grievance that no assessment had been made for the component of pain and suffering and there has also been no assessment for loss of amenities arising on account of 13% permanent disability that had been caused. I would provide for the same and also make notional increases for attendant charges, special diet and tabulate the various heads as under:-

3. The total compensation shall be Rs. 1,10,500/- and the additional amount in excess over what has already been provided by the Tribunal shall also attract

interest @7.5% from the date of petition till the date of payment.

4. The insurance company pleaded that the Tribunal had relied on the judgment of Full Bench of this Court in [National Insurance Co. Ltd. Vs. Sucha Singh and Others](#), to draw an inference that even if the original licence had been fake, the renewal had been proved to be genuine and therefore, the licence must be taken as a valid licence. Learned counsel for the insurer would argue that the law has undergone a change where the fake licence which is renewed shall still be taken as fake. I must observe that under the normal circumstances I would have taken as a justifiable consideration to allow for the insurer to have recoveries if there had been a case of deliberate violation of terms of policy. It would literally depend on whether the owner made any enquiries and the circumstances under which he had caused the employment of his driver. It has ultimately the owner's own faith on the licence that was produced that would govern the issue regarding liability as set forth by the Supreme Court in [Pepsu Road Transport Corporation Vs. National Insurance Company](#), The insurance company has not even thought it necessary to prefer an appeal against the liability which is already assessed. Even at the previous stage when the matter was brought before another Court, the insurance company had not pleaded for issuance of notice to the owner and driver. This Court has actually dispensed with notice to the owner and driver and has proceeded to post the case for arguments only in the presence of the insurer. The issue of liability cannot, therefore, be reopened at this stage for the benefit of the insurer. The liability shall be on the insurer.

5. The award stands modified and the appeal is allowed to the above extent.