(2016) 4 PLR 649

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 1336 of 1999 (O&M).

Sunder Lal - Appellant
@HASH Laxmi Narain
and Others — APPELLANT

Vs

RESPONDENT

Date of Decision: April 26, 2016

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (2016) 4 PLR 649

Hon'ble Judges: K. Kannan, J.

Bench: Single Bench

Advocate: Ms. Neeti Gupta, Advocate, for the Appellant; Mr. Sudershan Thakur for Mr. Ajit Sihag, Advocates, for the Respondents Nos. 1 and 2; Mr. Navin Kapur, Advocate, for the Respondent No. 3

Final Decision: Dismissed

Judgement

K. Kannan, J.(Oral) - A Head Constable in Haryana service, as pillion rider in two wheeler came by grievous injuries in a collision with the respondent''s tempo. The accident had taken place on 31.08.1992 and before the Tribunal, the claimant had given evidence to the effect that surgeries had been performed on two different occasions, the first surgery having failed and second surgery that accelerated the disability from the original assessment of 40% to 80% disability. There was also injury in his hand which was assessed at 10%. The petitioner had claimed Rs. 5 lakhs as compensation and the Tribunal had assessed Rs. 1,23,650/-.

2. An amputation causes a very serious disability and inflicts not merely a loss of amenity but also a loss of earning capacity. The police constable who may continue in his employment may still suffer serious handicap of prospect of promotion in his career. The scales of compensation for amputation are fairly liberal and the loss of amenities

themselves would qualify for a claim in the range of about Rs. 2 lakhs as held in **Neerupam Mohan Mathur v. New India Assurance Company Limited-2013(4) SCC 15** and not less than Rs. 1,50,000/- towards pain and suffering as assessed by the Supreme Court in **Sanjay Kumar v. Ashok Kumar-2014 (5) SCC 330.** Indeed there are higher sums awarded for loss of earning capacity such as was done in **Syed Sadiq and others v. Divisional Manager, United India Insurance Company Limited- 2014(2) SCC 735.** The amount claimed of Rs. 5 lakhs ought to have been taken very reasonable and instead of subjecting the reassessment under each one of the heads which may have aggregate to more than even Rs. 10 lakhs, I restrict the claim to Rs. 5 lakhs, for, the case was of the year 1992 and the provision for interest for the additional sum itself will be sufficient to bring the amount to the scales of compensation that are being assessed now.

3. The compensation is increased to Rs. 5 lakhs as claimed in the petition and the additional amount over what was already assessed to make it to Rs. 5 lakhs will attract interest at 7.5% from the date of petition till date of payment, although the Tribunal has awarded the interest at 12%. The liability shall be on the owner and driver as already assessed, exonerating the Insurance Company for lack of proof of insurance at the relevant time of accident.

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