

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **FAO No.20 of 1990**

DATE OF DECISION: July 26, 2006

RAM KUMAR

...APPELLANT

VERSUS

CHHOTU RAM AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. M.L. SAINI, ADVOCATE FOR THE APPELLANT.
MR. R.A. YADAV, ADVOCATE FOR RESPONDENT NO.1.
MR. KARMINDER SINGH, ADVOCATE FOR
NATIONAL INSURANCE COMPANY.

ASHUTOSH MOHUNTA, J. (ORAL)

The appellant has filed the present appeal against the judgement of Motor Accident Claims Tribunal, Gurgaon dated 1.9.1988, by which compensation of Rs.60,000/- alongwith interest at the rate of 12% was awarded on account of injuries suffered by him.

Briefly the facts of the case are that the appellant Ram Kumar was driver of truck bearing No.HRR 3102 which was owned by Chhotu Ram, respondent No.1. On 2.5.1987, while he was driving the truck and returning to Mahendergarh after unloading goods at Faridabad and when he reached near Dhulawat, Police Station Tauru at about 6.00 p.m. the tie rod of the truck broke, as a result of which the truck went out of control and it struck against a tree. As a result of the accident, the appellant sustained

numerous injuries. He was taken to Civil Hospital, Sohna and thereafter he was referred to Safdarjung Hospital, New Delhi where his left leg just above knee was amputated. The appellant remained admitted in Safdarjung Hospital, New Delhi upto 25.6.1987 i.e. for a period of more than one month. The appellant claimed compensation of Rs.5,36,000/- on account of the injuries suffered by him. It was averred in the claim petition that he was drawing a monthly salary of Rs.1200/- at the time of accident. Reply was filed by the owner of the truck, wherein, it was stated that the offending vehicle was insured with National Insurance Company, Rewari-respondent No.2 and hence he is not liable to pay any compensation. It was also stated that on the date of accident the truck was owned by one Rattan Lal and not by respondent No.1. The Tribunal found that accident took place because the tie rod of the truck broke and the vehicle dashed against a tree, as a result of which the appellant received injuries. There is no challenge by either the owner or the insurance company to the findings of the Tribunal on issue No.1 and hence the findings of the Tribunal are upheld.

The next question that arises in the present case is that what is the amount of compensation that the appellant is entitled to receive. It has come in evidence that the appellant was working as driver of the truck and drawing a monthly salary of Rs.1200 per month. He had a wife and two daughters to support, one of whom was of marriageable age. The left leg of the appellant had been amputated and he remained in hospital for more than 2 months and even after his discharge from the hospital he had to undergo treatment and was confined to bed for a period of six months. As per Dr. S.P. Aggarwal, PW-6, the appellant has suffered permanent disability of

70% and would have to walk with the help of clutches for the rest of his life. It has come in evidence that the appellant had to spent huge amount on his treatment.

In view of the above, the findings of the Tribunal by which a total compensation of Rs.60,000/- only has been paid is absolutely erroneous and cannot be sustained in any manner. The appellant has not only remained bed ridden for more than 6 months but has also suffered 70% permanent disability on account of the fact that his left leg above the knee has been amputated. The appellant has become handicapped for the rest of his life and obviously cannot do any further driving and other jobs because of the disability suffered by him. In this view of the matter, the appellant is awarded a sum of Rs.10,000/- as loss of salary i.e. the period which he remained confined to bed. The appellant is also entitled to a sum of Rs.30,000/- on his medical treatment. In this regard although no bills have been produced in evidence by the appellant but keeping in view the nature of the injury, the appellant must have spent the aforementioned amount. I award a sum of Rs.50,000/- as the appellant has not only spent this amount on his medical treatment but also he has to purchase clutches and artificial leg for the rest of his life. Apart from the above, I award a sum of Rs.1 lac on account of 70% permanent disability suffered by him as his left leg has been amputated. The appellant is also entitled to a sum of Rs.20,000/- for pain and suffering and another sum of Rs.10,000/- for hiring an attendant to look after him. In view of the above, I award a total compensation of Rs.1,90,000/- alongwith the interest at the rate of 12% per annum.

As the offending vehicle was comprehensively insured with respondent No.2-National Insurance Company, therefore, it is the insurance company which is held liable to pay the entire compensation.

The judgement of Motor Accident Claims Tribunal, Gurgaon dated 1.9.1988, is modified to the above extent and accordingly the appeal stands disposed of.

July 26, 2006
Gulati

(ASHUTOSH MOHUNTA)
JUDGE