

**HIGH COURT OF JAMMU AND KASHMIR AT
JAMMU**

CIMA No.214/2006, CMP No.249/2006

Date of Order : May 15, 2008

National Ins. Co. Ltd. Vs. Yaseen & Ors.

Coram

Hon'ble Mr. Justice Virender Singh

Appearing counsel:

For appellant(s)	:	Mr. C.S. Gupta, Advocate.
For Respondent(s)	:	Mr. P.S. Chandel, Advocate, for Respondent-1. Mr. Keshav Thakur, Advocate, for Respondents-2 and 3.

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| i) | Whether approved for reporting
in Press/Journal/Media | : Yes/No. |
| i) | Whether to be reported in
Digest/Journal | : Yes/No. |
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Vide award dated 17-02-2006, learned Presiding Officer, Motor Accidents Claims Tribunal, Jammu (hereinafter to be referred to as Tribunal), awarded Rs.1,84,794/- along with interest @ 7.5% per annum from the date of filing the claim petition till the realization of the awarded amount in favour of respondent-1 (hereinafter to be referred to as claimant). Aggrieved of the same, National Insurance Company (hereinafter to be referred to as Insurance Company) has preferred the appeal on hand, which already stands admitted vide order dated 20th of February, 2008.

At the very outset, learned counsel for the claimant says that despite specific direction, the Insurance Company has not deposited the awarded amount with the Registrar Judicial of this Court. Mr. Gupta states that on account of certain procedural delays, the amount was not deposited within the stipulated period and he has received a cheque bearing No.030150 dated 18-03-2008 to the tune of Rs.1,47,554/-, which includes the interest up to 18th of March, 2008. He prays that the Insurance Company may be allowed to deposit the said cheque today itself. Mr. Gupta very fairly states that the Insurance Company would also deposit another cheque with regard to the interest for another two months accrued on the awarded amount without any delay.

Registrar Judicial is directed to accept the aforesaid cheque as also the cheque to be deposited by the Insurance Company towards interest of two months.

Learned counsel for both the sides agree that the instant appeal can be disposed of at this stage, as the record of Tribunal has also been received and the Insurance Company is joining issue on quantum of compensation only.

Mr. Gupta has primarily assailed the impugned award on the amount of Rs.42,320/- awarded in favour of the claimant for Transportation Charges, submitting that it is on higher side and that

the claimant had not produced any documentary evidence in this regard. Learned counsel submits that may be the claimant had gone to Amritsar for his surgery, still he would not have incurred this much amount towards Transportation Charges. May be the claimant has placed on record certain receipts in this regard, but the same are not formally proved.

So far as the amount awarded to the claimant under other six heads is concerned, Mr. Gupta has not projected any grievance.

On the other hand, Mr. Chandel, Advocate appearing for the claimant, submits that it has come in the evidence of the claimant that he had to visit Amrisar 13/14 times, which included his initial visit and thereafter for follow up treatment. In his statement, the claimant has categorically stated that he had spent about Rs.95000/- on transportation, medical care, diet etc. and even if he has not formally proved the receipts with regard to the Transportation Charges, it was just impossible for him to travel to Amritsar through ordinary mode of conveyance. Therefore, in the absence of the documentary evidence not being formally proved, it can still be safely said and presumed that he must have spent this much of amount on the transportation and, therefore, the learned Tribunal has rightly awarded a sum of Rs.42,320/- under this head in favour

of the claimant. Learned counsel has read the entire evidence of the claimant (which is in vernacular) before me.

Record reveals that the claimant had got both bones of his right leg fractured, which has resulted into permanent disability to the extent of 20%. It is also evident from the documentary evidence on record that he was shifted to Dr. Karam Singh Memorial Hospital, Amritsar and remained admitted there for 15 days. As per the medical evidence, his leg was operated upon and a rod inserted in it. Dr. Romesh Chander PW-3, when stepped into witness box, stated that most of his treatment was done in the said hospital only. Therefore, it can be comfortably presumed that the claimant must have visited the said hospital for his follow up treatment on different required dates and incurred expenditure for hiring a private conveyance (a Taxi) for each visit. Therefore, in my considered view, the amount awarded to the tune of Rs.42.320/- as Transportation Charges, is not at all on higher side.

Since Mr. Gupta has not assailed the impugned award with regard to the compensation awarded under other heads, the same remains unaltered.

The net result is that the instant appeal is dismissed.

Registrar Judicial is directed to release the cheque already deposited by the insurance Company in favour of the

claimant/injured/respondent-1 without any delay but against proper identification. Another cheque towards interest of two months, on its deposit by the Insurance Company, shall also be released in favour of the claimant/injured/respondent-1 accordingly.

Jammu
May 15, 2008
T.Arora, PS

(Virender Singh)
Judge