

(333)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.667 of 2002
Date of decision: 1.7.2015

Rati Ram

.... Appellant

Versus

Shashi Bhushan and anr.

.... Respondents

Present: Mr. Anil Shukla, Advocate for the appellant.
None for respondent No.1.
Mr. Suvir Dewan, Advocate for respondent No.2.

S.S. Saron, J.

The appellant Rati Ram aggrieved against the inadequate compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad ('Tribunal' - for short) vide its judgment and award dated 4.10.2001, has filed the present appeal claiming more compensation.

The appellant and his uncle on the fateful day on 21.1.2000 at about 2.00 p.m. were coming on a scooter, which was being driven by his uncle at a moderate speed and on the correct side of the road. The appellant was riding pillion on the said scooter. When their scooter reached near Mewla Maharajpur turning on the G.T. Road, Shashi Bhushan (respondent No.1) driver of the offending Maruti car came from Delhi side driving his car in a rash and negligent manner. The car of Shashi Bhushan (respondent No.1) struck against the scooter on which the appellant was riding. The appellant sustained fracture on his leg, besides, other injuries on various parts of his body. He was taken to B.K.

Hospital, Faridabad where he remained admitted for two-three days. The appellant in his claim petition averred that he was doing labour work and earning Rs.3000/- per month at the time of accident and his age was 35 years. He claimed compensation of Rs.4 lacs.

Shashi Bhushan (respondent No.1) driver and owner of the Maruti car, besides, the National Insurance Company (respondent No.2) insurer of the Maruti car contested the claim petition of the appellant and denied the allegations. The Insurance Company (respondent No.2) stated that the compensation awarded was exaggerated.

The learned trial Court framed the following issues:-

1. Whether the accident on 21.1.2000 at about 2.00 p.m. on the G.T. road near Mewla Maharajpur took place due to the rash and negligent driving of Car No.HR-29/E-4745 by respondent No.1 Shashi Bhushan? OPP
2. If issue No.1 is proved, to what amount of compensation petition (sic. the petitioner) is entitled to and from whom? OPP
3. Whether the respondent No.1 was not holding a valid and effective driving licence at the time of accident and as such respondent No.2 is not liable to make the payment of compensation, if any? OPR-3

4. Whether the petition is bad on account of mis-joinder of the necessary parties?

OPR-3

5. Relief.

In respect of issue No.1 it was held that the accident had taken place due to the rash and negligent driving of Shashi Bhushan (respondent No.1) who was driving the offending car. There is no challenge to the said issue.

As regards the amount of compensation, the appellant was held entitled to Rs.25,000/- on all counts, which was recoverable jointly and severally from the respondents along with interest at the rate of 9% per annum from the date of petition till realization of the amount. The learned Tribunal noticed that the appellant in his deposition stated that he was a Mason while in his claim petition he had averred that he was working as a labourer. His stand beyond his pleadings was held to be not acceptable. Besides, the appellant admitted in his cross-examination that B.K. Hospital was a Govt. Hospital where treatment was given free of cost. He also admitted that he had not spent anything during the period he remained admitted in the said hospital. He had obtained bills and receipts (Ex.P3 to Ex.P18). The approximate total thereof came to Rs.4500/-. It was held that there was no corroborative evidence or any other document on record which showed that the appellant had to take bed rest for six months as had been alleged. Taking all the circumstances into account, the learned Tribunal awarded Rs.7,000/- as expenses incurred on his treatment. He was held entitled to Rs.3000/- on account of pain and suffering.

According to the disability certificate (Ex.P1), the appellant suffered

disability to the extent of 9% and he was awarded Rs.10,000/- as compensation for the same. For the period he was unable to work as a labourer, he was awarded Rs.5000/- and on all counts, he was awarded Rs.25,000/-.

Learned counsel appearing for the appellant has made strenuous efforts to convince this Court that the compensation awarded is inadequate. However, he was unable to mention any such circumstance by which the compensation could be enhanced further in respect of the injuries that he suffered. One circumstance, however, that finds favour is that the appellant has not been awarded any amount towards special diet and attendant charges that he must have incurred.

Learned counsel appearing for the Insurance Company has opposed the same and stated that the compensation awarded is just and adequate and no further compensation is liable to be awarded.

After giving my thoughtful consideration to the matter, it may be noticed that indeed no compensation towards special diet and attendant charges has been awarded by the learned Tribunal. In Smt. Parveen v. Raj Kumar Kakkar and others, 2007 (2) RCR (Civil) 753 (DB) (P&H), the claimant was a young lady of 25 years and suffered multiple fractures resulting in 20% disability. She was employed as a Teacher and had been in-capacitated to perform her duty properly. Furthermore, she was young and a married lady and at a child bearing and rearing stage. This Court apart from compensation for mental pain and suffering, and permanent disability awarded a sum of Rs.20,000/- towards special diet and another sum of Rs.20,000/- towards attendant's charges. The

appellant in the present case as already noticed was a labourer and the accident had occurred on 21.1.2000. Therefore, he is also entitled for expenses incurred towards special diet and attendant's charges. In the circumstances, it would be just and expedient that a sum of Rs.5000/- towards special diet and sum of Rs.5000/- towards attendant's charges is awarded to the appellant over and above the amount of Rs.25,000/- that has already been awarded.

A further sum of Rs.10,000/- only is awarded to the appellant.

With the said enhancement of Rs.10,000/-, the appeal is disposed of.

(S.S. Saron)
Judge

1.7.2015
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Note: Whether to be referred to the reporter: Yes/No.