

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.611 of 2002 (O & M)

Date of Decision: August 19, 2015

Ram Saran

..... APPELLANT

VERSUS

Raj Kumar & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. Pritam Saini, Advocate, for the appellant.

None for respondent Nos.1 to 3.

Mr. Vinod Gupta, Advocate, for respondent No.4
– Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by Ram Saran seeking enhancement of compensation on account of injuries suffered by him in a vehicular accident in a motor vehicle accident on September 26, 1999 involving Car No.HR-26C-5626.

2. Briefly stating, facts of the case are that on September 26, 1999, Ram Saran was going from Ladwa to Babain on his Moped/Vicky No.HR-07C-5903. One Salinder was on pillion rider. At about 11:30 AM, when they reached on the turn of village Bhallar, located on Ladwa – Babain road, car bearing No.HR-26C-5626 came from the side of Babain, being driven by respondent No.1 – Raj Kumar, on the wrong side of road. The offending car dashed into the moped driven by appellant, due to which, Ram Saran as well as Salinder suffered multiple injuries. One Jarnail Singh witnessed the accident. He alongwith others shifted the injured to Community Health Centre, Ladwa, wherefrom, they were referred to PGI, Chandigarh. However, on the way, Salinder Kumar succumbed to injuries. Thereafter, they were brought back to Lok Nayak Jai Parkash Hospital, Kurukshetra, where, Ram Saran was admitted. On the basis of Jarnail Singh, FIR bearing No.137 dated September 26, 1999, under Sections 279, 337, 338, 384-A IPC was registered in Police Station, Ladwa, District Kurukshetra.

3. Appellant – Ram Saran, preferred a claim petition bearing MACT Case No.534 of 1999 before Motor Accident Claims Tribunal, Kurukshetra (for short, ‘Tribunal’). Vide Award dated August 1, 2001, claimant was awarded compensation to the tune of ₹ 66,000/- alongwith interest @ 9% from the date of filing of claim petition, holding respondent No.1 – Raj Kumar (driver) and

respondent No.2A – Raj Kumar son of Ram Kishore (owner of offending car) to be liable to pay compensation jointly and severally.

4. Aggrieved by aforesaid award, claimant has approached this Court through instant appeal seeking enhancement of compensation.

5. Learned counsel for the appellant has ebulliently argued that compensation awarded by the Tribunal is insufficient. It has been proved on record that he received multiple injuries/fractures in the accident. He also suffered permanent disability and had to undergo physical pain and mental agony. He had to spent on special diet and transportation. The car was insured with M/s United India Insurance Company Limited, at the time of accident.

6. There is no appearance on behalf of respondent Nos.1 to 3. Learned counsel for respondent No.4 – Insurance Company has submitted that there is no error, infirmity or illegality in the findings recorded by learned Tribunal. The compensation so awarded by learned Tribunal is just, adequate and has been awarded keeping in view all the factors required to be taken into consideration for determining the compensation. Liability to pay compensation has rightly been fastened upon respondent No.1 – Raj Kumar (driver) and respondent No.2A – Raj Kumar son of Ram Kishore, (owner of offending car), respondent No.3 herein, jointly and severally. Since,

there is no infirmity or illegality in the impugned award, appeal is liable to be dismissed.

7. After bestowing due consideration to the rival submissions made by learned counsel for the parties and perusal of impugned award as well as evidence available on file, this Court is of the considered view that amount of compensation awarded through impugned award is just and proper.

8. As per the version of claimant – Ram Saran, he suffered multiple injuries/fractures in the vehicular accident. He was treated in Community Health Centre, Ladwa, whereafter he was admitted in Lok Nayak Jai Parkash Hospital, Kurukshetra and remained admitted there for six days. Thereafter, he remained indoor patient and got treatment at Anand Orthopaedic Centre, Kurukshetra for one month, and spent an amount of ₹ 50,000/-. Dr. Himanshu Anand (PW-3), an Orthopaedic Surgeon, Anand Orthopaedic Centre, Kurukshetra, in his statement said that claimant remained admitted in his hospital from 2.10.1999 to 31.10.1999, on account of fractures of both bones fore-arm left with open dislocation left elbow, with 6"x6" wound encircling the arm, with blacking and infection. Injured undergone surgery was performed on 22.10.1999 and ₹ 9,670/- were charged, on account of hospitalization, room charges, operation charges etc., vide bill Ex.PD. Even thereafter, patient was advised to visit him for follow up and he charged various amounts from him vide bills Ex.PE to PG.

9. The Tribunal has recorded a finding to the effect that perusal of bills Ex.PD to PG and Ex.P1 to P29, injured – claimant had spent a sum of ₹ 16,397/- in the process of treatment of injuries/fractures suffered in the accident. There is nothing on record that injured spent ₹ 50,000/- as claimed. In this view of the matter, the Tribunal has rightly held that injured – claimant is entitled for reimbursement of ₹ 25,000/-.

10. According to petitioner, he suffered permanent disability of left arm on account of injuries suffered by him in the accident. As per the testimony of Dr. C.R. Khatri (PW-2), Orthopaedic Surgeon, Lok Nayak Jai Parkash Hospital, Kurukshetra, on 21.6.2000, he alongwith Dr. R.C. Bhutani, Civil Surgeon, Kurukshetra, examined injured Ram Saran and found that he suffered 9% disability, attributed to mal-union of fracture of both bones, left fore-arm and restricted movements of left elbow, as detailed in Disability Certificate Ex.PC. Here also, keeping in view the disability, compensation of ₹ 20,000/- awarded by the Tribunal is just and adequate. Besides, learned Tribunal also awarded him compensation to the tune of ₹ 4,000/- towards Special Diet; ₹ 2,000/- for Transportation Charges; ₹ 5,000/- for pain & sufferings; and another sum of ₹ 10,000/- on account of loss of earnings, making total compensation to the tune of ₹ 66,000/- with interest @ 9% per annum from the date of filing the claim petition,

which cannot be faulted with keeping in view the facts and circumstances of this case.

11. In the light of what has been discussed above, there is no infirmity or illegality in the impugned award. The appeal, accordingly, stands dismissed.

August 19, 2015
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(Jaspal Singh)
Judge