

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2068 of 1998 (O&M)
Date of Decision: May 13, 2015

Pardeep Kumar

...Appellant

Versus

Anand Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Sharma, Advocate
for the appellant.

None for the respondents.

INDERJIT SINGH, J.

Appellant Pardeep Kumar has filed this appeal against Anand Singh, driver of Police Bus bearing registration No.DL-1P-5488 (offending vehicle), Government of National Capital Territory Delhi and Deputy Commissioner of Police Illrd Battalion respondents, challenging the impugned Award dated 03.06.1998 passed by learned Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'Tribunal'), for enhancement of the compensation, which was awarded by the Tribunal.

Notice of motion was issued but none appeared on behalf of the respondents to contest the present appeal.

I have heard learned counsel for the appellant and have gone through the record.

At the time of arguments, learned counsel for the appellant has argued that the Tribunal has granted compensation on lower side and on so many counts, no compensation has been given. He further argued that appellant suffered permanent disability of 55% and the compensation has been awarded without applying the multiplier of future loss of income.

The brief facts of the case are that claimant Pardeep Kumar filed claim petition against Anand Singh, driver, Government of National Capital Territory and Deputy Commissioner of Police, IIIrd Battalion, by mainly stating that he suffered injuries in a motor vehicular accident which took place at 10.30 A.M. on 06.04.1995 in the area of Rohat Bypass. It is stated in the claim petition that claimant is a class 'A' Contractor, who was capable of earning ₹12,000/- per month and he was 26 years of age. Claimant claimed ₹5 lacs.

In the evidence, claimant stated that he remained admitted for two months as indoor patient as per the medical report Ex.P2 to P4 and Ex.P12 and he continued visiting the hospital as an outdoor patient for the next 3½ months. Subsequently, the right heel of the claimant started disintegrating and he was admitted to the hospital for surgical intervention, where the heel was cut and now he cannot walk of his own. The Tribunal has noted during the examination that the claimant used a pair of crutches to walk. Claimant stated that his treatment continued for well over 8½ months. He was again admitted to hospital for skin grafting on the right foot. The claimant alleged that

he spent more than ₹30,000/- on medicines etc., though from the medical bills Ex.P24 to Ex.P93, the Tribunal held that claimant spent ₹11,336/- on medicines. PW-1 Dr.V.K.Govils stated in evidence that the Board had assessed the percentage of permanent disability as 55% of claimant on account of multiple injuries with fractures of both femur, k-nailed with fracture with stiff knee and further deposed that 55% permanent disability is of the entire body and not just the legs.

Learned Tribunal taking the permanent disability of 55% of the entire body, awarded a sum of ₹75,000/-. ₹12,000/- has been awarded regarding actual amount spent by the claimant on purchase of medicines. The Tribunal also reached to the conclusion that income of the claimant has not been proved and it might be between ₹1500 to ₹2000/- per month and he was compensated ₹15,000/- for loss of work during the period of hospitalization etc. The Tribunal has held that as the claimant has to walk on crutches, therefore, ₹30,000/- has been awarded towards loss of future avenues in life. ₹10,000/- has been awarded towards pain and suffering and further a sum of ₹5000/- towards special diet. In total, compensation of ₹1,47,000/- was awarded which was rounded off to ₹1,50,000/-.

After going through the record, I find that the compensation awarded by the Tribunal is on lower side. The Tribunal in lumpsum granted ₹75,000/- for more than 50% permanent disability. Similarly, the claimant remained under treatment for eight months and only ₹12,000/- has been given for medicines. Further, the compensation towards special diet, pain and sufferings and for loss of

future avenue, is also less. No compensation has been granted for attendant charges and for transportation.

Keeping in view the facts and circumstances of the case and in view of the evidence produced by the claimant before the Tribunal, I take the income of the claimant-appellant as ₹2000/- per month as of labourer. As disability is stated to be 55%, it is taken to be 50% for the purpose of computing the compensation for permanent disability and loss of future avenues. In view of the permanent disability, if it is to be 50% and by applying the multiplier of 17, the compensation comes to ₹1000 x 12 x 17, which will be ₹2,04,000/-.

The claimant has stated that he remained admitted in the hospital for treatment of his injuries. The Tribunal has given only the medical expenses as per the bills. Keeping in view the facts and circumstances and also the fact that future treatment may also be required, the amount of ₹12,000/- as medical expenses is enhanced to ₹30,000/-. For the transport charges, which the claimant-appellant might have spent as he has to walk on crutches, ₹20,000/- is awarded. Further, the claimant remained under treatment for long time, therefore, on the ground of special diet, the compensation is increased from ₹5000/- to ₹20,000/-. Similarly, compensation for pain and sufferings, is increased from ₹10,000/- to ₹20,000/- and for loss of future avenues in life, the compensation is increased from ₹30,000/- to ₹50,000/-. As the claimant-appellant now walks on crutches etc. due to surgical intervention his heel has to be cut, therefore, for attendant charges, compensation of ₹30,000/- is awarded. As it is in

the evidence that claimant remained under treatment for more than 8½ months and after that again remained under treatment, therefore, on the ground of loss of work during that period, ₹20,000/- is awarded.

In view of the above discussion, finding merit in the present appeal, the appeal is accepted accordingly. The claimant-appellant is entitled to total compensation of ₹3,94,000/- along with interest on enhanced amount as awarded by the Tribunal from the date of filing of the claim petition till its realization.

May 13, 2015
Vgulati

(INDERJIT SINGH)
JUDGE