

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.1750 of 2004

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Date of decision:22.7.2015

Resham Devi

.....Appellant

v.

Sukhdev Singh and another

.....Respondents

.....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Amit Jain, Advocate for the appellant.

Mr. Abhishek Goyal, Advocate for Mr. Pardeep Goyal,
Advocate for respondent No.2.

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Inderjit Singh, J.

This appeal has been filed by Resham Devi-appellant/claimant against Sukhdev Singh and Oriental Insurance Company Limited-respondents for enhancement of compensation of ₹1,500/- along with interest @9% per annum from the date of filing of petition till realization awarded by the Motor Accident Claims Tribunal, Faridabad vide award dated 3.1.2004.

The brief facts of the case are that Smt. Resham Devi-claimant/appellant filed claim petition under Sections 163-A and 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') against Sukhdev Singh and Oriental Insurance Company Limited. It is stated in the

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claim petition that on 7.12.2000 the petitioner, a fifty years old labourer, along with her companions Smt. Sato Devi and Smt. Mathri, was coming back home after finishing the work. When they reached near Lakhani Godown in the vicinity of F.C.I. godown, a motorcycle bearing registration No.HR-51-G-6009 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.1 in a rash and negligent manner, came from behind and struck the petitioner, who was treading the extreme 'kacha' portion of the road, resulting into multiple injuries to her. she was taken to B.K. Hospital, Faridabad, where she remained admitted till 8.12.2000. Since she had sustained fracture of both bones of her left leg, she took further treatment from Dr. K.C. Gupta, Orthopaedic Surgeon. On her statement, FIR was registered on the same day. It is also stated that despite having spent approximately ₹70,000/- on her treatment, she has still not fully recovered and is not in a position to pursue her job, compensation is liable to be enhanced.

Respondent No.1 contested the petition and denied the accident. Respondent No.2 also stated that it was a hit and run case and the motorcycle in question has been dragged in order to receive compensation.

After framing the issues and after the parties led the evidence, the Tribunal held respondent No.1-driver guilty for the accident while driving the motorcycle in question rashly and negligently, but it disbelieving the version for the purpose of quantum of compensation granted only ₹1,500/- as compensation. A perusal of the record shows that the claimant examined PW-1 Dr. Harsh Piplani, who conducted radiological examination

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of the petitioner on 11.12.2000. As per the case of the petitioner, she remained admitted in B.K. Hospital, Faridabad from 7.12.2000 to 8.12.2000. The Tribunal disbelieved this witness by saying that as the petitioner remained at house after 8.12.2000, therefore, how she has been radiologically examined. These findings by the Tribunal are not as per law. When the injured remained admitted in hospital for two days i.e. 7.12.2000 and 8.12.2000, it means she had come to her house after that. She was radiologically examined on 11.12.2000 as she can go outside for X-ray. Again non-production of MLR is of no value when the doctor PW has come to the witness box and deposed regarding X-ray and also regarding the admission of the patient in the hospital. On this ground alone PW-1 Dr. Harsh Piplani cannot be disbelieved. The Tribunal cannot scrutinize the evidence in such a minute detail and can not disbelieve the witnesses on this ground including the claimant as well as the doctor. Dr. Harish Handa has also been examined, who is running the Handa Medical Centre. The Tribunal has also disbelieved this witness. The petitioner was admitted in the hospital on 31.12.2000 with history of fracture leg and doubted the evidence of two doctors and the claimant. A perusal of the evidence on record shows that the Tribunal itself has observed that the claimant suffered injuries and accident took place due to rash and negligent driving of respondent No.1-driver of offending vehicle when such is the situation, then the Tribunal cannot hold that these injuries were not received at the time of accident. Otherwise also, the FIR was also registered on the same day. The claimant is a simple illiterate lady doing labour work. There is no

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reason or ground to disbelieve all this evidence.

Therefore, from the above discussion, I set aside the findings recorded by the Tribunal on these grounds as discussed above. The claimant has spent ₹27,000/- on medical treatment, for which amount she is entitled. Besides this, the claimant is also entitled to ₹5,000/- for pain and suffering; ₹5,000/- for special diet; ₹5,000/- for attendant charges and ₹5,000/- for transportation charges. Due to the fracture, she also could not do the labour work and for that ground she is further entitled to ₹5,000/- and for future treatment she is also entitled to ₹5,000/-. Therefore, the award amount is enhanced from ₹1,500/- to ₹57,000/-. The respondents are directed to pay the enhanced amount along with interest @9% per annum from the date of filing of the petition till actual payment.

The appeal is accepted accordingly.

July 22, 2015.

(Inderjit Singh)
Judge

hsp