

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.4683 of 2002 (O & M)

Date of Decision: April 30, 2015

Satish Kumar

..... APPELLANT

VERSUS

Raghubans Singh & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

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?

. . .

PRESENT: - Mr. Vivek Suri, Advocate, for the appellant.

Mr. Vinod Gupta, Advocate, for respondent
No.3 – Insurance Company.

. . .

Jaspal Singh, J

1. The instant appeal has been preferred by the claimant seeking enhancement of compensation on account of injuries sustained by him in an accident occurred on November 17, 1999 involving car bearing registration No.PB-11J-3318.

2. Briefly stated, facts giving rise to instant appeal are that on January 17, 1999 at about 2:00 PM, Satish Kumar – claimant was going on his scooter No.PB-42-3147 from Patiala to Samana. When he reached in between village Dhental and Kheri, car bearing No.PB-11J-3318, being driven by respondent No.2 – Avinash Kumar Jain, hit his scooter from back side. Resultantly, Satish Kumar fell down and received multiple injuries including fractures in ribs and left arm. He was taken to Samana by the car driver with the help of one Bikram Singh, from where, he was advised to be admitted to Government Rajindra Hospital, Patiala. He was admitted to Rajindra Hospital, Patiala, where he remained admitted in Surgical Ward upto February 17, 1999, on which date, he was referred to PGI/AIIMS, New Delhi. Due to strike of doctors at AIIMS, he was got admitted in Pruthi Hospital, Jalandhar. On February 19, 1999 he was again referred to AIIMS, New Delhi. As the strike of doctors was still going on, claimant was got admitted to PGI, Chandigarh, on March 3, 1999, where he was operated upon on March 6, 1999 and was discharged on March 17, 1999.

3. Injured – Satish Kumar preferred a claim petition which was resisted by respondent Nos.2 to 4. Issues arising out

of the pleadings of the parties were framed and parties were afforded opportunity to lead evidence.

4. After hearing learned counsel for parties and perusing evidence/ documents available on file, learned Tribunal awarded a sum of ₹ 1,39,800/- as compensation in favour of injured – claimant alongwith interest @ 9% per annum from the date of filing claim petition.

5. Aggrieved against the impugned award, injured – claimant has preferred the instant appeal seeking enhancement of compensation.

6. Assailing the impugned award, it has been contended by learned counsel for the appellant that only a meagre amount of ₹ 1,39,800/- has been awarded by learned Tribunal under the various heads and while assessing the compensation, learned Tribunal has failed to appreciate serious injuries sustained by the appellant, period of hospitalization, quantum of permanent disability as well as other amounts incurred by the appellant for purchase of medicines, to meet the expenditure of operations as well as diet and attendant charge. Thus, amount so awarded by learned Tribunal deserves to be suitably enhanced.

7. On the other hand, learned counsel for the respondent – Insurance Company has ebulliently argued that amount already awarded by learned Tribunal is just and fair, and keeping in view all the facts and circumstances as well as evidence brought on record, learned Tribunal has awarded compensation under the various heads which otherwise can be termed to be on higher side. There is nothing on record to suggest the enhancement of compensation. Instant appeal being devoid of merits is liable to be dismissed.

8. After bestowing due consideration to the rival submissions made by learned counsel for the parties and scrutinizing the impugned award as well as evidence available on file, this Court is of the considered view that amount awarded by learned Tribunal deserves to be enhanced for the reasons to be recorded hereinafter.

9. A glance at the impugned award transpires that appellant suffered multiple ribs fracture as well as fracture of left humerus and remained admitted in the hospital continuously for a period of more than two months. During his admission, he also developed chest pain for which he was subjected to CT Scan which showed traumatic rupture of descending thoracic aorta 3/4 circumferential tear with wide separation and

pseudoaneurysm, regarding which only a paltry amount of ₹ 64,800/- on account of medical bills has been awarded but it is to be noticeable that a person who suffers such external injuries and remains admitted in hospital for more than a couple of months and even thereafter, is not in a position to attend his duty and perform his daily work, is not expected to retain all the bills and to maintain an account in respect thereof. Not only this, under the head of conveyance charges, special diet, attendant charges, only an amount of ₹ 10,000/- has been awarded which is also on very lower side. Thus, taking into consideration the quantum of compensation awarded by learned Tribunal as well as nature of injuries sustained, period of hospitalization and the extent of permanent disability to be 30%, this Court is of the considered view that ends of justice would meet in case the amount so awarded by learned Tribunal is enhanced by ₹ 1 lac.

10. In the light of what has been discussed above, appeal is partly allowed whereby compensation awarded to the appellant on account of injuries sustained by him stands enhanced to ₹ 2,39,800/- from a sum of ₹ 1,39,800/-, which shall be payable by respondent No.3 – Insurance Company. If, the amount so awarded/enhanced is not paid by the respondent –

Insurance Company within 45 days from the date of receipt of certified copy of this order, the claimant – appellant shall be entitled to interest @ 9% per annum from the date of institution of claim petition.

April 30, 2015
avin

(Jaspal Singh)
Judge