

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3872 of 2008
DATE OF DECISION:22.12.2015

Balvinder @ Virender

...Appellant

versus

Balraj Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Sandeep Kotla, Advocate for the appellant.
Mr.Raman Chawla, Advocate for respondent No.1
Mr.Saurabh Mago, AAG, Haryana for respondent
No.2.
Ms.Vandana Malhotra, Advocate for respondent
No.3.

RAMENDRA JAIN, J.

The injured has approached this Court for modification of the award dated 18.7.2008 passed by the Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal').

Briefly stated the facts as follows:

On 18.4.2005, the claimant boarded a Maruti Van bearing registration No.DDA/5295 from Bus Stand Village Chikanwas to go to Agroha. When he had just covered the distance of about five acres on Hisar-Sirsa National Highway No.10, a bus bearing registration No.HR-39/8397, driven by respondent No.1 in rash and negligent manner at a

very high speed, struck the van. Resultantly, the van turned turtle. The occupants of the van sustained injuries. The claimant was shifted to Agroha Medical College, Agroha for medical treatment. Later on, he was shifted to Gupta Hospital, Hisar. His right hand was amputated. The offending vehicle was insured with respondent No.4.

The Tribunal, on appraisal of evidence, reached the conclusion that the claimant suffered injuries in a motor vehicular accident. It after assessing the income at ₹36,000/- per year and considering his 23 years age, applied the multiplier of 17 which comes to ₹6,12,000/-. Considering the permanent disability of 72%, the amount of compensation was awarded at ₹4,40,640/- after applying the cut off proportionate disability. The Tribunal also awarded compensation amount of ₹12,920/- for medicine, ₹5,000/- for pain, special diet and hospitalization and ₹1,000/- for transportation. The total amount of compensation of ₹4,59,560/- was ordered to be paid by the respondents jointly and severally.

The first limb of Shri Kotla's argument is that the learned Tribunal has wrongly assessed the income of the claimant at ₹3,000/- per month, though he had led evidence showing his monthly income at ₹15,000/- per month from his agriculture pursuits. Although the claimant has suffered disability of 72% which even the Tribunal has also taken into consideration while assessing the compensation amount, however, proportionate amount qua disability of 72% was

awarded, which should have been 100%, inasmuch as, the claimant is not in a position to cope up with the agriculture work for his whole of life. The second limb of argument of learned counsel is that the Tribunal did not grant any compensation for loss of amenities, loss of expectation of life, frustration, pain and suffering, damages, physical, mental shock, earning and future medication. To strengthen his arguments, reliance has been placed on the judgments rendered in G.Ravindranath @ R. Chowdary v. E. Srinivas and another, 2013(3) RCR (Civil) 934, Neerupam Mohan Mathur v. New India Assurance Co. 2013(4) RCR (Civil) 268 and R.Venkata Ramana and another v. The United India Insurance Co. Ltd. and others 2013(4) RCR (Civil) 426.

On the contrary, learned counsel for the respondents took more or less the same lines in their argument as taken before the Tribunal.

The arguments showered by learned counsel for the parties need detailed discussion for the adjudication of the matter.

So far as question of income at ₹15,000/ per month derived from the agriculture work is concerned, the Tribunal while deciding the claim, reached the conclusion that the claimant failed to bring any evidence to show that he was cultivating 17 acres of land. As a logical corollary, his status was considered as a manual labourer and his income at ₹3,000/- per month was taken into consideration. This finding cannot be

disturbed in the absence of any material placed on record to show that the claimant was earning at ₹15,000/- per month.

There is no dispute that the claimant has suffered permanent disability of 72%.

In order to claim the benefit of 100% permanent disability, the claimant's wishes to built the foundation of his case, like, his right hand was amputated and as a corollary, he is not in a position to cope with the agriculture work and, therefore, he is entitled for the grant of compensation amount under various heads, as aforesaid. Every possible efforts were made to place reliance upon the views taken in the aforesaid judgments so as to claim the compensation amount under various heads.

Let the aforesaid judgments have to be examined before proceeding to discuss the question that arise. The facts of **G.Ravindranath's** case (supra) reveal that the claimant therein had become impotent due to injuries suffered in a motor vehicular accident. For that unfortunate accident, the claimant had to take treatment in reputed hospitals for ten years in future. As a necessary corollary, the claimant therein was awarded compensation amount for future medical expenses, pain, suffering and trauma, loss of amenities and prospects of marriage, loss of expectation of life and loss of future earning. The facts of other case, namely, **Neerupam's** case, reveal that the arm of the claimant was amputated. His disability was assessed 70%. However, in this case, the

claimant had to go to Hospital every 10 days for treatment. For that reason, he was awarded the compensation amount for pecuniary damages (special damages. The facts of third case, namely, **R.Venkata Ramana's** case, reveal that the claimant was a student who suffered 80% permanent disability in a motor vehicular accident. His disability made him bedridden and unable to move without wheel chair and could not allow to do anything except breathing for life. That being so, the compensation amount awarded by the Tribunal under various heads was taken as not too much by Hon'ble the Apex Court.

However, the facts of the present case are entirely different than the facts of the aforesaid judgments. Here the claimant suffered disability of 72% and nothing else that too qua a particular limb. There is no evidence to show that for the treatment of injury suffered by him took long time or the injury so suffered, would not allow him to work or he is breathing for life for the injury suffered by him. The facts and impact of the injury of the present case and the judgments are entirely distinguishable and, therefore, no reliance can be placed on the judgments cited by learned counsel for the claimant.

Thus, the conclusion arrived at by the Tribunal cannot be said to be erroneous, inasmuch as, taking into consideration the permanent disability of 72%, the amount of compensation was awarded at ₹4,40,640/- after applying the cut off proportionate disability.

The amount of compensation at ₹5,000/- awarded under the head of pain, special diet and hospitalization and ₹1,000/- for transportation is on lower side. The claimant remained hospitalised for eight days. During this period, the claimant was provided special diet for the growth of his health and off and on, the family members visited in the hospital for knowing the health of the claimant and the claimant also visited on number of occasions in the hospital for his treatment, I think it appropriate to grant the amount of compensation at ₹20,000/- instead of ₹6,000/- awarded by the Tribunal, under the aforesaid heads.

No other point has been urged.

In view of the aforesaid discussion, the present appeal is partly allowed. The claimant is entitled to compensation amount of ₹20,000/-, including ₹6,000/- already awarded by the Tribunal, under the head of pain, special diet, hospitalization and transportation.

December 22,2015
KD

(Ramendra Jain)
Judge