

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Date of Decision: *October 07, 2015*

FAO No.4007 of 2010 (O & M)

Sanjay

..... APPELLANT

VERSUS

Sewa Ram & 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. Pankaj Mehta, Advocate, for the appellant.

Mr. R.S. Mamli, Advocate, for respondent
No.1.

Ms. Shamsheer Kaur, Advocate, for respondent
No.2.

Mr. Madhu Ranjan, Advocate, for respondent
No.3.

Mr. Gaurav Bansal, Assistant Advocate
General, Haryana, for respondent Nos.4 and 5.

Mr. D.P. Gupta, Advocate and Mr. Rohit
Goswami, Advocate, for respondent No.6.

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Jaspal Singh, J

1. The instant appeal has been preferred by claimant – appellant Sanjay seeking enhancement of compensation awarded to him by the Motor Accident Claims Tribunal, Hisar (for short, ‘Tribunal’) vide Award dated November 20, 2009 passed in MACT Case No.80 of 2008 titled ‘Sanjay vs. Sewa Ram @ Sewa Singh & others’, whereby he has been awarded compensation to the tune of ₹ 60,000/- on account of injuries sustained by him in a vehicular accident.

2. The brief facts of the case are that on June 5, 2006, the claimant – appellant was one of the passengers in a jeep bearing registration No.HR-39A/4678, going from Hansi to Hisar. Sewa Ram was the driver of the said vehicle. He was driving the jeep at high speed, in a rash, negligent and zig zag manner. When the jeep reached near TCP Gate No.2, Hisar Cantt., Hisar, at about 9.45 AM, it struck against a bus bearing registration No.HR-62A/0416, as a result of which, occupants of the jeep received grievous injuries. FIR No.435 dated June 5, 2006 under Sections 279, 337, 304-A IPC was registered against Sewa Ram at Police Station, Sadar Hisar, regarding the aforesaid accident. The claimant – appellant was taken to General Hospital, Hisar, where he was medico-legally examined

and remained under treatment of Dr. Parveen Chawla upto June 9, 2006 and as OPD patient till February 1, 2007. The claimant – appellant suffered fracture(s) in left leg and fracture of left ulna which were nailed and plated.

3. The appellant preferred a claim petition before the Tribunal seeking compensation on account of expenses incurred by him on his treatment. The petition was contested by the respondents by filing written statements. From the pleadings of the parties, issues were framed. In order to prove their respective cases, parties led evidence.

4. After hearing learned counsel for the parties and on appraisal of evidence, the claimant – appellant was awarded a sum of ₹ 40,000/- towards of expenses incurred by him on his treatment; ₹ 10,000/- towards conveyance charges, special diet, attendant etc.; and ₹ 10,000/- towards pain & suffering, totaling ₹ 60,000/-, vide Award dated November 11, 2009 passed by the Tribunal. Respondent No.1 – Sewa Singh @ Sewa Ram (Driver sum Owner of offending jeep) and respondent No.2 – Oriental Insurance Company (for short, ‘Insurance Company’) were held liable to pay the compensation. However, Insurance Company shall first satisfy the award, thereafter, shall recover the same from respondent No.1.

5. Dis-satisfied by the aforesaid award, claimant has approached this Court seeking enhancement of compensation.

6. 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 in the accident. He had to undergo physical pain and mental agony. He had to spent on special diet and transportation. The offending jeep was insured with Oriental Insurance Company Limited, at the time of accident.

7. Learned counsel for respondent No.1 – Sewa Ram @ Sewa Singh (driver of offending jeep) has contended that the Tribunal has passed the award without perusing the facts of the case and evidence produced on the record. The award is based on conjectures and surmises, thus, is liable to be set aside. Infact, there is no evidence to establish that accident occurred due to rash and negligent driving of jeep, in which, the appellant suffered injuries.

8. Learned counsel for the respondents - State has supported the award passed by learned Tribunal by submitting that since just and adequate compensation has already been awarded by learned Tribunal while keeping in view the facts & circumstances of the case, evidence available on file and the

latest proposition of law, no interference of this Court is justified. Appeal deserves to be dismissed.

9. This court has given a thoughtful consideration to the aforesaid submissions made by learned counsel for the parties and perused the record.

10. As far as submission of learned counsel for respondent No.1 – driver of the offending jeep, is concerned, the same is without any substance. The Tribunal has rightly observed that the accident occurred due to rash and negligent driving of the offending jeep. There is sufficient evidence in this regard and the findings recorded by the Tribunal do not call for any interference.

11. It is an admitted fact that Tribunal has awarded a sum of ₹ 40,000/- towards of expense incurred by him on his treatment; ₹ 10,000/- towards conveyance charges, special diet, attendant etc.; and ₹ 10,000/- towards pain & suffering, totaling ₹ 60,000/-, which can be termed to be a just and adequate compensation.

12. A perusal of discharge card Ex.PW16-A indicates that the petitioner was admitted in General Hospital, Hisar, on June 5, 2006 and was treated, by Dr. Parveen Chawla (PW-16), for fracture of both bones left leg which was nailed, fracture of

left ulna which was also plated. He was discharged on June 9, 2006. The bill Ex.PW16/B is of ₹ 15,750 and OPD treatment till February 1, 2007 are Ex.PW16/C to Ex.PW16/D. The investigation medicines physiotherapy and hardware used in operation bills were proved as Ex.PW16/K1 to Ex.PW16/K13. PW-8, Narender Kumar, Chemist, proved treatment bills Ex.P24 to Ex.P47. The total sum of all the bills comes out to be ₹ 39,347/-. The Tribunal has taken into consideration all these facts and ₹ 60,000/- have been awarded to the injured – petitioner, including medical treatment, special diet, attendant, conveyance charges, pain, suffering and future treatment expenses, which cannot be termed to be insufficient.

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

October 07, 2015

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**(Jaspal Singh)
Judge**