

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.2834 of 2011 (O&M)

Date of decision: 28.07.2015

Jai Ram

..... Appellant

versus

Pawan Kumar and others

..... Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Jatinder Kumar Verma, Advocate for the appellant
Mr.D.K.Prajapati, Advocate for
Mr.R.S.Madan, Advocate for respondent No.3

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

This is claimant's appeal against the award dated 4.11.2010, passed by the Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal').

As per the case of the claimant, on 10.12.2008, while travelling in Innova car bearing registration No.CH-02-T/2455, from Gunta, District Alwar (Rajasthan) to Gurgaon, which was being driven by respondent No.1, he received multiple grievous injuries when the driver struck the vehicle against the pillar of the Toll Plaza. He was taken to Raman Munjal Hospital, Sidhrawali. Next day, the appellant was taken to AIIMS, Delhi, where he remained admitted upto 16.4.2009. Thereafter, he was admitted in Indo Western Brain & Spine Hospital, Jaipur from 23.4.2009 to 23.10.2009. He was

working as a driver with Central Bureau of Investigation and getting monthly salary of Rs.23,525/-. He remained absented from duty without pay from 10.12.2008 to 31.10.2009.

The Tribunal, after considering the medical bills Ex.P2 to Ex.P127 and some marked bills, came to the conclusion that these were of Rs.2,36,916/-. It was observed that claimant had admitted that he was attending his duties regularly and getting his salary as usual. At the same time, the Tribunal observed that his claim regarding expenses during admission in Indo Western Brain & Spine Hospital, Jaipur cannot be accepted as there is no medical evidence on file that on account of injuries received in the accident he was treated in said hospital. The claimant was treated in the said hospital for watery discharge from nostril on sneezing and lying down. However, the Tribunal awarded the following compensation:-

a)	Medical and other expenses	Rs.2,50,000/-
b)	pain and sufferings	Rs.50,000/-
	Total	Rs.3,00,000/-

I have heard learned counsel for the parties and have carefully gone through the file.

Statement of the claimant recorded before the Tribunal shows that he has admitted in cross-examination that he obtained leave from the department in the shape of medical, earned and casual leave. It follows that he was paid for the period he remained under treatment. He claimed that he remained absent from duty. However, no one from the Central Bureau of Investigation office was examined to state that claimant remained absent from duty and that

he was not paid salary for the period, he remained under treatment. As the best evidence was not produced, therefore, his oral assertion in this regard cannot be accepted and was rightly discarded.

So far the medical bills are concerned, though the Tribunal has disallowed the claim for treatment in Indo Western Brain & Spine Hospital, Jaipur, however, the calculation of the total bills Ex.P2 to Ex.127 shows that these are amounting to Rs.2,07,563.24. Even if, the observations of the Tribunal are not taken into consideration and if these bills as well as three marked bills Mark E to Mark V and Mark X are also considered, even then total amount of the medical bills comes to Rs.2,36,916/- The Tribunal has already allowed medical and other expenses to the tune of Rs.2,50,000/-, which would mean that expenses for treatment at Jaipur Hospital are included in the said bills and were in fact allowed.

It being so, no enhancement on account of medical expenses is possible. No other point has been pressed before this Court. It being so, I am of the view that adequate compensation has already been granted. There is no ground for enhancement of compensation. Accordingly the appeal is dismissed.

28.07.2015
gk

(Kuldip Singh)
Judge