

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

FAO No.258 of 2012 (O&M)

Raj Kishan

...Appellant

Versus

Anil Kumar and another

...Respondents

(2)

FAO No.259 of 2012 (O&M)

Sumit Kumar

...Appellant

Versus

Anil Kumar and another

...Respondents

Date of Decision: May 12, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Nitin Goyal, Advocate for
Mr.Sanjiv Gupta, Advocate
for the appellants.

Mr.Sushil Bhardwaj, Advocate
for respondent No.1.

Mr.Amrinder Singh Sidhu and Mr.Binat Sharma, Advocates
for respondent No.2.

INDERJIT SINGH, J.

Both the above-mentioned FAOs are taken up together for disposal being arisen from same Award in two claim petitions.

Both the above-mentioned FAOs have been filed by the claimants against Anil Kumar, owner and driver of Canter No.HR-65-

1035 (offending vehicle) and ICICI Lombard General Insurance Company Limited, insurer of the offending vehicle, challenging the impugned Award dated 29.07.2011 passed by learned Motor Accident Claims Tribunal (FTC), Karnal (hereinafter referred to as 'Tribunal'), for enhancement of the compensation.

Notice of motion in both the appeals have been issued and respondents appeared through their respective counsel and contested the appeals.

The common facts of both the cases are that on 27.03.2009, claimant Raj Kishan along with his cousin Sumit Kumar was going on motorcycle bearing registration No.HR-05M-9053 as pillion rider being driven by Mohinder Singh. From the opposite direction a Canter being driven in rash, negligent and zig zag manner, came and hit the motorcycle, as a result of which the accident took place in which all the three persons riding on the motorcycle received injuries. It is further stated in both the claim petitions that claimants remained admitted in the hospital from 27.03.2009 to 01.04.2009. A rod has been inserted in the right leg of each claimant and they claimed ₹7,00,000/- (each) as compensation.

Learned Tribunal on the basis of evidence produced by the parties, allowed the claim petitions. Claimant Raj Kishan was awarded ₹38,500/- and to claimant Sumit Kumar, ₹60,500/- was awarded along with interest @ 6% per annum to each claimant from the date of filing of the claim petitions till realization of awarded amount.

Aggrieved from the above Award, present appeals have

been filed by the claimants-appellants.

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

Firstly, as regarding the claim petition of Raj Kishan, PW-3 Dr.B.S.Virk has been examined, who has stated that Raj Kishan was having fracture femur lower and compound operation was done and the patient was discharged on 01.04.2009. He further deposed that he charged an amount of ₹13,000/-. Claimant Raj Kishan also proved the medical bills Ex.P24 to P31 amounting to ₹31,500/- and the same were awarded to the claimant Raj Kishan. ₹5000/- on account of pain and suffering and ₹2000/- on account of special diet have been awarded. The Tribunal has not awarded any amount for transportation charges. No amount has been awarded on the ground of attendant charges and regarding loss of income during the period the claimant could not attend his routine affair. Further, I find that the amounts awarded on the ground of special diet and pain and suffering are also on lesser side.

Keeping in view the facts and circumstances and evidence on record, I hold that the claimant Raj Kishan is entitled to ₹3500/- as transportation charges, ₹5000/- as attendant charges and ₹5000/- as loss of income as he could not attend his routine duty during the period he remained under treatment. Further, as per PW-3 Dr.B.S.Virk, the claimant Raj Kishan is also to be operated upon in future for taking out the rod. Therefore, ₹10,000/- is awarded on account of future treatment. Further, claimant Raj Kishan is entitled to

₹5000/- as special diet instead of ₹2000 and ₹10,000/- for pain and suffering instead of ₹5000/-.

As regarding the expenses incurred on medical bills, the Tribunal has correctly awarded the amount of ₹31,500/- as per the medical bills.

In view of the above discussion, claimant Raj Kishan is entitled to compensation of ₹70,000/- along with interest @ 6% on the enhanced amount from the date of filing of the claim petition till realization.

Similarly, as regarding claim petition of Sumit Kumar, PW-3 Dr.B.S.Virk has been examined, who has stated that Sumit Kumar was having fracture femur mid part and lower part and fracture patella right and operation was done and the patient was discharged on 01.04.2009. He further deposed that he charged an amount of ₹18,500/-. He also deposed that Sumit Kumar was again admitted on 30.07.2010 and operation was done and the patient was discharged on 31.07.2010. He charged ₹8000/-. Claimant Sumit Kumar also proved the medical bills Ex.P6 to P23 amounting to ₹53,500/- and the same were awarded to the claimant Sumit Kumar. ₹5000/- on account of pain and suffering and ₹2000/- on account of special diet have been awarded. The Tribunal has not awarded any amount towards transportation charges. No amount has been awarded on the ground of attendant charges and regarding loss of income during the period the claimant could not attend his routine affair. Further, I find that the amount awarded on the ground of special diet and pain and suffering

are also less.

Keeping in view the facts and circumstances and evidence on record, I held that the claimant Sumit Kumar is entitled to ₹3500/- as transportation charges, ₹5000/- as attendant charges and ₹5000/- as loss of income as he could not attend his routine duty during the period he remained under treatment. Further, as per PW-3 Dr.B.S.Virk, the claimant Sumit Kumar is also to be operated upon in future for bringing out the rod. Therefore, ₹10,000/- is awarded on account of future treatment. Further, claimant Sumit Kumar is entitled to ₹5000/- as special diet instead of ₹2000 and ₹10,000/- for pain and suffering instead of ₹5000/-.

As regarding the expenses incurred on medical bills, the Tribunal has correctly awarded the amount of ₹53,500/- as per the medical bills.

In view of the above discussion, claimant Raj Kishan is entitled to compensation of ₹92,000/- along with interest @ 6% on the enhanced amount from the date of filing of the claim petition till realization.

Therefore, finding merit in both the FAOs, the same are allowed accordingly.

May 12, 2015
Vgulati

(INDERJIT SINGH)
JUDGE