

In the High Court of Punjab and Haryana at Chandigarh

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CM No.6234-CII of 2013
and
F.A.O. No.1007 of 2013 (O&M)

.....

Date of decision:8.7.2015

Sunder Singh

.....Appellant

v.

Rai Singh and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. S.S. Sahu, Advocate for the appellant.

Mr. R.M. Suri, Advocate for Respondent No.4.

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Inderjit Singh, J.

CM No.6234-CII of 2013:

For the reasons mentioned in the civil miscellaneous application, the delay of 4 days in filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

F.A.O.1007 of 2013 (O&M):

This appeal has been filed by claimant-Sunder Singh for enhancement of compensation against Rai Singh-driver, General Manager, Haryana Roadways, Hisar Depot and State of Haryana-owner and ICICI Lombard General Insurance Company-insurer of the offending bus bearing No.HR-39-8387 (hereinafter referred to as 'the offending bus') challenging

the impugned award dated 5.11.2012 passed by the Motor Accident Claims Tribunal, Hisar, vide which award for compensation amounting to ₹1,61,635/- along with interest @7.5% per annum from the date of filing of the claim petition till realization, has been passed.

As per the facts of the case, Sunder Singh filed claim petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents as mentioned above. It is stated that claimant Sunder Singh, aged 19 years, a student of Polytechnic, on 21.10.2010 boarded the offending bus, which was being driven by respondent No.1 at a very high speed, in a rash and negligent manner and he suddenly took a turn and applied brake and due to the jerk, the claimant, who was standing near the window, fell down from the bus and his leg was crushed by the rear tyre of the bus, as a result of which, he received serious, grievous and multiple injuries on his person. It is stated that more than ₹1 Lac has been spent on the medical treatment.

As per the evidence of PW-6 Dr. M.K. Garg, he assessed the disability as 30% and proved the disability certificate Ex.P40. He also deposed that there will be difficulty in running and jumping, physical work with leg by claimant/petitioner. He also stated that the claimant was having crush injuries on his right leg and ankle and restriction of right ankle movement with apparent deformity of right ankle.

The Tribunal awarded ₹25,000/- for pain and suffering, ₹3,000/- for special diet, ₹2,000/- for attendant charges, ₹2,000/- as transportation charges, ₹40,500/- on the ground of permanent disability, ₹69,135/- for medicines/treatment expenses and ₹20,000/- for loss of

amenities/disfigurement and in this way, total amount of compensation of ₹1,61,635/- was awarded.

Notice of motion in this case was issued to respondent No.4- Insurance Company only. Mr. R.M. Suri, learned Advocate has appeared on behalf of the respondent-Insurance Company and contested this appeal.

At the time of arguments, learned counsel for the appellant placed reliance on the judgment of Hon'ble Supreme Court in Mallikarjun v. Divisional Manager, National Insurance Co. Ltd. and another, 2013 (4) R.C.R. (Civil) 295. In this case, it is held by the Hon'ble Supreme Court that structural formula not be followed for permanent disability upto 10 per cent , it should be ₹1 Lac, unless there are exceptional circumstances to take a different yardstick. Upto 30 percent to the whole body ₹3 Lacs; upto 60 per cent, ₹4 Lacs; upto 90 per cent, ₹5 Lacs and above 90 per cent, it should be ₹6 Lacs should be awarded.

On the other hand, learned counsel for the respondent- Insurance Company mainly argued that the compensation has been correctly assessed by the Tribunal and there is no ground for enhancement of the same.

Now in the present case, the claimant, who is a student of Polytechnic, has suffered permanent disability upto 30 per cent.

After hearing learned counsel for the appellant and in view of the law laid down by the Hon'ble Supreme Court in Mallikarjun v. Divisional Manager, National Insurance Co. Ltd. and another (supra), the claimant is entitled to ₹3 Lacs towards pain and suffering, mental and

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physical shock, hardship, inconvenience, discomfort, loss of amenities in life due to permanent disability. The appellant-claimant is further entitled to ₹69,135/- regarding medical expenses actually spent by him and further ₹2,000/- for transportation charges, ₹2,000/- for attendant charges and ₹3,000/- as charges for special diet. In this way, the claimant/appellant is entitled to total compensation which comes to ₹3,76,135/-. The appellant-claimant will also be entitled to the interest as awarded by the Tribunal. The Insurance Company is directed to pay enhanced compensation amount at the first instance and the interest from the date of claim petition till actual payment as awarded by the Tribunal.

The appeal is accepted accordingly.

July 8, 2015.

(Inderjit Singh)
Judge

hsp