

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.378 of 2014 (O&M)
Date of Decision:21.09.2015

Vivek

....Appellant

Versus

Jagmal Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Randeep Singh, Advocate for the appellant.

Mr. M.B. Jain, Advocate for respondent No.4-
ICICI Lombard General Insurance Company Ltd.

NAVITA SINGH, J.

1. This appeal is preferred against the award passed on 04.09.2013 by Motor Accident Claims Tribunal, Ambala, (Tribunal for short) granting compensation to the tune of Rs.8,14,000/- to the appellant on account of injuries received by him in a motor vehicle accident occurred on 18.05.2010. Enhancement is sought.

2. The appellant, on 18.05.2010, was going to Shahabad from Jandli Bridge, Ambala City on a motorcycle along with Parveen Kumar who was driving it. When they reached the over bridge in Ambala Cantt. on the G.T. road, Bus No.HR-65-0985 came from behind and all of a sudden turned towards bus stand Ambala Cantt. just ahead of the motorcycle thereby hitting the front of the vehicle which Parveen Kumar was driving. The appellant and his friend both fell down and the rear wheel of the bus passed over the legs of the appellant. The appellant was subjected to many surgeries in Dayanand Medical College and Hospital, Ludhiana and Postgraduate Institute of Medical Education and Research, Chandigarh. Compensation to the tune of Rs.8,14,000/- was awarded for the injuries sustained by the appellant.

3. Counsel for the appellant argued that the appellant was not adequately compensated. The Tribunal also wrongly deducted 25% from the amount of medical bills, which totalled to Rs.4,72,171/-. It was simply observed that the amount in the relevant documents appeared to be on the higher side. This contention on behalf of the appellant is acceptable and also counsel on the other side could not raise any argument in favour of the deduction of 25% made by the Tribunal arbitrarily. Despite holding that the appellant had proved the documents Mark P-1 to P-89, Mark P-95 to P-157 and Ex.PW4/7 to PW4/34, 25% was deducted from the total amount mentioned in those documents. Once the Tribunal came to the conclusion that the relevant documents were proved, there appeared to be no reason for reducing the amount in the whimsical manner. It is, therefore, held that the appellant shall be entitled to receive an amount of Rs.4,72,171/- on account of medical bills.

4. An amount of Rs.15,000/- for miscellaneous expenditure was also on the lower side. The miscellaneous expenditure would include attendant charges and other miscellaneous expenses as observed by the Tribunal. An amount of Rs.15,000/- was peanuts for that. The appellant is, therefore, awarded Rs.15,000/- over and above the amount given for miscellaneous expenses.

5. Counsel for the appellant argued that the bills for transport charges were produced before the Tribunal but nothing was awarded on that count, though the appellant had to go for surgeries and for follow-up treatment. He, however, fairly conceded that regarding the bill for travelling to Delhi, he would not claim anything. However, record shows that Tribunal considered all documents Mark P1 to P157 and Ex.PW4/7 to PW4/34 except Mark P90 to P94. The documents which were not considered were some medical documents. All the bills relating to transport were taken into account and it was categorically mentioned in the award that the amount in all the above documents was

Rs.4,72,171/-. It had already been held that deduction of 25% was made without any reason and the appellant was entitled to get the entire amount. No separate award for transport charges is required to be made.

6. Permanent functional disability of the appellant is assessed at 11.25% and on that count, an amount of Rs.13,500/- already granted is sufficient as multiplier of 17 was applied to that, giving Rs.2,29,500/-. For loss of future earning, amount was rightly given and so was the amount for loss of income during treatment. For pain and suffering also, the appellant was adequately compensated.

7. For loss of marriage prospects, an amount of Rs.50,000/- was awarded but it must be said that the appellant simply did not lose good marriage prospects but also lost the comfort to live a normal life with a healthy body. To be surviving with a permanent disability is not easy. An another amount of Rs.50,000/- is, therefore, awarded to the appellant for future discomfort etc. Therefore, the total amount of compensation is enhanced by Rs.1,83,043/- in addition to the amount awarded by the Tribunal.

8. The appeal is disposed of in the above terms.

(NAVITA SINGH)
JUDGE

21.09.2015

Ishwar

Whether to be referred to reporter: Yes/No