

In the High Court of Punjab and Haryana at Chandigarh

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CM No.23026-CII of 2013

and

F.A.O. No.5433 of 2013

.....

Date of decision:8.7.2015

Navin Kumar

.....Appellant

v.

Neeraj and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. B.K. Bagri, Advocate for the appellant.

Respondent No.1 ex-parte.

Mr. Sandeep Singh, Advocate for Respondent No.2

Mr. Vishal Goel, Advocate for respondent No.3.

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Inderjit Singh, J.

CM No.23026-CII of 2013:

For the reasons mentioned in the civil miscellaneous application, the delay of 43 days in filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

F.A.O.5433 of 2013:

This appeal has been filed by claimant-Navin Kumar for enhancement of compensation against Neeraj-driver, Surender Pal-owner

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and Reliance General Insurance Company Limited-insurer of the offending vehicle Mahindra Max bearing No.HR-19B-5060 (hereinafter referred to as the 'offending vehicle') challenging the award dated 17.4.2013 passed by the Motor Accident Claims Tribunal, Rewari, vide which award for compensation amounting to ₹1,74,000/- along with interest @7% per annum from the date of filing of the claim petition till realization, has been passed. The Tribunal has given the compensation as under:-

1. Medical expenses	:₹68,000/-
2. Pain & suffering	:₹30,000/-
3. Attendant charges	:₹ 6,000/-
4. Nutritious diet	:₹ 5,000/-
5. Transportation charges	:₹ 5,000/-
6. Disability	:₹ <u>60,000/-</u>
Total	:₹ <u>1,74,000/-</u>

As per the brief facts, petitioner-Navin Kumar (appellant herein) filed claim petition for compensation of ₹10 Lacs regarding the injuries sustained by him in a motor vehicular accident on 27.2.2010 at about 6.30 a.m. in the area of Village Jadra due to rash and negligent driving of offending vehicle Mahindra Max driven by its driver Neeraj. It is also stated that the petitioner was aged about 18 years and was a student-cum-tutor earning ₹5,000/- per month. On the basis of the evidence produced on the record, the Tribunal has not believed the income of the petitioner and held as non-earner.

Notice of motion was issued in this case. Respondent No.1 was proceeded ex parte. Respondents No.2 and 3 appeared through their

counsel and contested this appeal. The record of the Tribunal was also summoned.

At the time of arguments, learned counsel for the appellant has placed reliance on the judgment of Hon'ble Supreme Court in Mallikarjun v. Divisional Manager, National Insurance Co. Ltd. and another, 2013 ACJ 2445. Learned counsel for the appellant argued that there is 20% permanent disability. Injured-claimant Navin Kumar, who was only 18 years of age and as per PW-1 Dr. Ashok Saini, who proved the disability certificate, he has suffered disability to the extent of 20% on account of restricted movement of left elbow and mild loss of associated activities sustained by him in the accident in question. The Tribunal only granted ₹60,000/- on the basis of permanent disability. He argued that as per the law laid down by the Hon'ble Supreme Court in the above mentioned case, ₹3 Lacs should have been granted for the permanent disability.

The counsel for the respondents argued that the compensation has rightly been computed. After going through the evidence on record and after hearing learned counsel for the parties, I find that in the present case the appellant was a student, who was not earning any amount. There is 20% disability as per the disability certificate on account restricted movement of left elbow.

Keeping in view the permanent disability suffered by the appellant/claimant, who has no income and was only a student 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), he is

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entitled to ₹3 Lacs in total towards pain and suffering, mental and physical shock, hardship, inconvenience, discomfort, loss of amenities in life due to permanent disability. The appellant-claimant is also entitled to ₹68,000/- for medical expenses and ₹6,000/- as attendant charges, ₹5,000/- as charges for special diet and ₹5,000/- as transportation charges. Therefore, the total compensation comes to ₹3,84,000/-. 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 along with the interest at the rate as awarded by the Tribunal from the date of claim petition till actual payment.

The appeal is accepted accordingly.

July 8, 2015.

(Inderjit Singh)
Judge

hsp