

In the High Court of Punjab and Haryana at Chandigarh

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CM No.14243-CII of 2015
and
F.A.O. No.4451 of 2015 (O&M)

.....

Date of decision:24.7.2015

Karan Singh

.....Appellant

v.

Dr. Aruna Garg and another

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Paramjit Jakhar, Advocate for the appellant.

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Inderjit Singh, J.

CM No.14243-CII of 2015:

For the reasons mentioned in the civil miscellaneous application, the delay of 16 days in re-filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

F.A.O. No.4451 of 2015 (O&M):

This appeal has been filed by Karan Singh-appellant (driver of offending vehicle car bearing registration No.HR-21E-7399) against Dr. Aruna Garg-respondent and Virender Singh-owner of the offending car-proforma respondent challenging the award dated 26.3.2015 passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the

Tribunal'), vide which the claim petition filed by Dr. Aruna Garg-claimant has been accepted and an award of ₹4,54,300/- as compensation to be paid to the claimant along with interest @7.5% per annum from the date of filing of petition till realization has been passed against respondents No.1 and 2 in the claim petition jointly and severally.

The brief facts of the case are that claimant-Dr. Aruna Garg filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') for grant of compensation to the tune of ₹20 Lacs on account of injuries suffered by her in the motor vehicular accident having taken place on 13.3.2013. As per the case of the petitioner (respondent No.1 herein) on 13.3.2013, she was coming from CHC Ladwa and was going to General Hospital, Hisar in car bearing registration No.HR-20T-7334 driven by her at a moderate speed. She suffered injuries in a motor vehicular accident due to rash and negligent driving of Karan Singh (minor) son of Virender Singh-respondent No.2, who was driving the offending car bearing registration No.HR-21E-7399. It is the case of the petitioner that the driver of the offending car in rash, negligent and zig zag manner struck his car into her car. Due to this impact, the petitioner received serious and grievous injuries on her person. Respondent No.1 fled away from the spot leaving behind his car at the spot. The petitioner was shifted to Chawla Nursing Home, Dabra Chowk, Hisar, where she was medico legally examined, treated and operated by Dr. Parveen Chawla. It is also the case of the petitioner that till date she is under treatment and much more treatment is required. FIR was also lodged against respondent No.1.

On notice, respondent No.1 appeared and pleaded that a false case has been registered and no accident took place.

After framing the issues and after the parties led the evidence, the Tribunal passed the award dated 26.3.2015 holding the present appellant guilty of rash and negligent driving and further the Tribunal awarded ₹4,54,300/- as compensation to the claimant. Aggrieved from this award, the present appeal has been filed by appellant.

Learned counsel for the appellant at the time of arguments argued that the compensation computed by the Tribunal is on higher side and challenged the same. The finding regarding rash and negligent driving etc. is not challenged.

I have heard learned counsel for the appellant and have gone through the record. As per the evidence and record, Dr. Aruna Garg received multiple and grievous injuries on the parts of her body in the accident in question. She stated that she spent ₹2 Lacs on her treatment and is still under constant follow-up of treatment. Dr. Praveen Chawla appeared as PW-8 and deposed that the petitioner remained admitted in his hospital from 13.3.2013 to 20.3.2013 as she had sustained fracture of right femur, right humerus, blunt injury chest and blunt injury abdomen. She was operated upon and was discharged in satisfactory condition and Dr. Praveen Chawla charged a sum of ₹55,700/-. The Tribunal in the award has stated that no document has been placed on record. PW-9 Dr. Surya Kant, Chawla Nursing Home deposed that he has brought the summoned record and as per Bill Ex.P.24, ₹12,000/- has been received from the patient. PW-6 Mukesh

Kumar brought the summoned record of patient and proved the Bills Ex.PW.6/A and Ex.PW.6/B. PW-2 Neha tendered her affidavit Ex.PW.2/A in her examination-in-chief wherein she deposed that she was engaged as attendant by Dr. Aruna Garg and she got salary of ₹5,000/- per month. Other PWs also proved the bills. PW-5 Maya deposed regarding charging of ₹6,000/- per month as maid servant. PW-10 Ramesh Chander, Accountant, CHC, Mangali further proved that Dr. Aruna Garg, who was a government employee and posted as Medical Officer, PHC, Ladwa under CHC Mangali had taken commuted leave of 97 days and earned leave of 25 days and suffered a loss of total 112 days. Her monthly salary was ₹83,109/-. The Tribunal after considering all this evidence granted the compensation as under:-

Pain and sufferings	:₹10,000.00
Special diet	:₹ 5,000.00
Attendant charges	:₹20,000.00
Transportation	:₹ 5,000.00
Loss of income on account of availing earned leave	:₹2,97,500.00
Treatment expenses	:₹1,06,800.00
Loss of enjoyment of life	:₹10,000.00
Total	:₹4,54,300.00

From the perusal of the award passed by the Tribunal, I find that in none of the columns under which the compensation was computed, the compensation has been given in excess. Loss of income regarding the earned leave period has been taken as per the salary of the patient.

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Treatment expenses have been taken as per the bills. In no way, this compensation has been given as excessive. I find no merit in the arguments of the learned counsel for the appellant.

Therefore, from the above discussion, I find that the compensation granted by the Tribunal is not liable to be reduced.

Consequently, finding no merit in the appeal, the same is dismissed.

July 24, 2015.

(Inderjit Singh)
Judge

hsp