

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

**FAO No.5984 of 2014 (O&M).
Date of Decision: 18.03.2016.**

Gulzar Singh

....Appellant.

VERSUS

Surinder Kapoor and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

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

SNEH PRASHAR, J.

CM-16576-CII-2014

Delay condoned.

FAO-5984-2014

This is an appeal filed by Gulzar Singh-claimant for enhancement of compensation awarded to him vide award dated 20.12.2013 passed in MACT No.61 of 2010 under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) filed by him claiming compensation on account of injuries sustained in a motor vehicular accident.

The relevant facts as noticed from the award passed by learned Tribunal are that on 07.01.2010 at about 12:00/ 12:15 p.m., when claimant Gulzar Singh was going to Jaimal Road Market on his Scooter bearing

registration No.PB-10BC-7491 and was being followed by his friend Harbhajan Singh on his own vehicle his scooter was hit by a Tata Safari bearing registration No.PB-10CG-1110 (hereinafter referred as to “the offending Safari), due to its rash and negligent by Puneet Kapoor (respondent No.2). The appellant fell down and sustained multiple grievous injuries on various parts of the body.

A First Information Report No.8 dated 12.01.2010 under Sections 279/337/338/427 of the Indian Penal Code was registered at Police Station Shimlapuri in respect of the accident against Puneet Kapoor-respondent No.2 on the statement of the claimant.

Partly allowing the petition under Section 166 of the Act of 1988 filed by the claimant, he was awarded compensation to the tune of Rs.1,94,948/- alongwith interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Respondent No.3-insurance company, being the insurer of the offending Safari was held liable for payment of compensation amount.

Feeling unsatisfied by the award dated 20.12.2013, the claimant-appellant preferred the instant appeal.

The submissions made by Mr. Chandandeep Singh, learned counsel representing the appellant have been considered and record perused.

Admittedly, during the accident the appellant-claimant sustained injuries on various parts of the body including fracture of nozal bone and remained hospitalized in Apolo Hospital, Ludhiana for 09 days

i.e. w.e.f. 07.01.2010 to 15.01.2010. Learned counsel for the appellant argued that as per the disability certificate Mark-A the appellant became disabled to the extent of 10% but learned Tribunal ignored the said certificate and awarded nothing on this count. Also no amount was awarded to the appellant for loss of amenities of life and for future medical expenses. The amount of Rs.10,000/- allowed on account of pain and suffering, Rs.5,000/- allowed towards special diet, Rs.5,000/- as conveyance charges, Rs.5,000/- for attendant charges and Rs.3546/- allowed towards loss of income are on the lower side.

The total amount of the medical bills/receipts tendered in evidence i.e. of Rs.1,66,402/- showing expenditure on treatment medicines etc. was allowed by learned Tribunal. The appellant remained hospitalized in Apollo Hospital, Ludhiana for 9 days. The amount of Rs.25,000/- (Rs.10,000/- on account of pain and suffering; Rs.5000/- for special diet; Rs.5000/- towards conveyance charges; and Rs.5000/- as expenses incurred on attendant) was allowed by learned Tribunal which is just and appropriate and calls for no intervention.

As regards, the amount of compensation on account of loss of income, learned Tribunal assessing the monthly income of the appellant as Rs.11,908/- allowed Rs.3546/- to the appellant for loss of income for nine days i.e. the period during which the appellant remained hospitalized on account of the injuries sustained by him in the accident. The said amount is adequate and also calls for no modification.

Coming to the disability, the appellant had tendered into

evidence the disability certificate Mark-A according to which he has become disabled to the extent of 10%. However, neither the appellant examined any member of the Board of Doctors who issued the disability certificate Mark-A nor any medical opinion or any other assessment regarding the injuries was produced. The disability certificate Mark-A does not indicate any disability qua the whole body. The finding of learned Tribunal recorded in Para No.19 of the award are as under:-

“I am of the considered opinion that this tribunal is unable to assess the extent of reduction of any earning capacity of the claimant, if it is so and in such a situation, the contention of learned counsel for the claimant that the claimant must be held to have suffered 10% loss of earning capacity, cannot be accepted as the claimant has failed to prove on record the fact that the claimant sustained 10 percent disability, due to the injuries sustained by him, as a result of that accident. Accordingly, the claimant cannot be awarded any compensation under this head.”

Learned counsel for the appellant could not demonstrate any infirmity in the above finding of learned Tribunal and in the compensation awarded by learned Tribunal. The appellant was awarded adequate compensation on all possible counts.

Thus, finding no ground for intervention in the award, the appeal is dismissed.

(SNEH PRASHAR)
JUDGE

18.03.2016.
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