

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

FAO No.4761 of 2015.

Date of Decision: 15.02.2016.

Parth

....Appellant.

VERSUS

Sukhbir Singh and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Akshay Kumar Jindal, Advocate for the appellant.

SNEH PRASHAR, J.

This is an appeal filed by Parth minor son of Vinod Kumar-claimant for enhancement of compensation awarded in MACT case No.143 of 2012 filed by him claiming compensation on account of injuries sustained by him in a motor vehicular accident.

The relevant facts are that on 16.09.2012 at about 12:30 p.m. claimant Parth alongwith his father was going on foot to his house. When they reached near Jatan Gate, Karnal, he was hit by motorcycle No.HR-05AA-2863, which came from backside and was being driven in a rash, negligent and careless manner. He sustained multiple injuries including fracture of his right leg and was treated at Girdhar Hospital, Karnal. A First Information Report No.939 dated 16.09.2012 under Sections 279 and 337

of the Indian Penal Code was registered at Police Station City Karnal in respect of the accident against Sukhbir Singh-driver of the motorcycle. The claimant was awarded compensation to the tune of Rs.83,519/- alongwith interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Respondent No.2-insurance company, being the insurer of the motorcycle was held liable for payment of compensation amount at the first instance.

Feeling unsatisfied by the award dated 26.02.2015, the claimant-appellant has preferred the instant appeal.

The submissions made by Mr. Akshay Kumar Jindal, learned counsel representing the appellant have been considered.

Learned counsel for the appellant-claimant argued that in Para No.13 of the award it was noticed by learned tribunal that as per the disability certificate Ex.P15 the claimant was having loss of hearing in left ear to the extent of 47.75 and right ear to the extent of 24.25. The disability certificate established that the claimant had suffered deficiency in hearing capacity of both the ears but no amount has been awarded as compensation on that count.

Perusal of the award passed by learned tribunal shows that there is no force in the argument of learned counsel for the appellant-claimant. The relevant paragraph No.13 of the tribunal where the disability certificate has been dealt with is reproduced hereunder:-

“Claimant has also produced in evidence disability certificate Ex.P15 which proves that claimant was having loss

of hearing impairment of left ear to the extent of 47.75 and of right ear to the extent of 24.25 and there is no significant hearing default. Though the claimant has produced in evidence Ex.P15 certificate, to prove deficiency in hearing capacity of the claimant, but the claimant has failed to prove that this deficiency in hearing was due to accident. In the claim petition the claimant pleaded that he received the injuries as per the MLR including fracture on right leg. As per MLR Ex.P2, there is no injury to the ears of the claimant. Since the claimant has failed to prove that he had received any injury on the head or on the ears or face in the accident, so the claimant has failed to prove that loss of hearing is because of the accident. Hence, the claimant is not entitled to any compensation on account of disability.”

No evidence was produced by the claimant to prove that he had suffered any such injury which could result in loss in hearing capacity. PW1 Dr. Rakesh Girdhar examined by the claimant did not mention about any such injury suffered by the claimant. Also in the medico legal report Ex.P2 there was no mention of injury on face, ear or head. Learned counsel for the claimant failed to demonstrate any kind of misreading or misappreciation of evidence on part of learned tribunal.

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

(SNEH PRASHAR)
JUDGE

15.02.2016.
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