IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.9418 of 2014 (O&M)
Decided on: 07.11.2016

Mohinder Singh

....Appellant

Versus

Vinod Kumar and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Patiyal, Advocate
for the appellant.

Mr. Sanjeev Goyal, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.26135-CII of 2014

Prayer in this application is for condoning delay of 108 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sanjeev Patiyal, Advocate, the application is allowed and delay of 108 days in re-filing the appeal stands condoned.

FAO No.9418 of 2014

Mohinder Singh, the injured – victim is in appeal seeking enhancement of compensation in respect of injuries sustained by him in a motor vehicular accident on 28.10.2013.

The learned Tribunal awarded compensation to the tune of Rs.36,600/- on the basis of bills Ex.P1, P2 and P7 to P20.

Counsel for the appellant has submitted that the claimant sustained head injury and remained hospitalized from 28.10.2011 to

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03.11.2011, proved by Dr. J.K. Gulati PW2. It is further submitted that in view of amount spent on medical expenses, it can be inferred that the claimant sustained serious injuries. It is further argued that the claimant is entitled to get compensation *qua* pain and suffering, transportation, services of an attendant and loss of income.

Counsel for the insurance company, on the contrary, has supported the award with the submission that there is no satisfactory much less cogent and convincing evidence produced on record with regard to nature of injuries sustained by the victim. It is further argued that the very fact that the injured was discharged from the hospital within a short span of time and there is no evidence with regard to any follow up treatment, no justification for award of compensation under other heads is made out.

I have heard counsel for the parties, perused the paperbook and the records.

Dr. J.K. Gulati, PW2 from Dr. Virk Hospital, Karnal has deposed that Mohinder Singh son of Kishan Chand was admitted on 28.10.2011 with head injury and was treated by Dr. Vivek Ahuja and Dr. Virk and was discharged on 03.11.2011 in a satisfactory condition. The CT scan report in regard to the head injury sustained by the victim was not produced by the doctor but the same was later marked as A in statement made by counsel for the claimant. However, there is no evidence that the claimant got any follow up treatment subsequent to his discharge from the hospital.

The claimant has deposed that he is an agriculturist, owns 5-6 acres of land and had employed one Shiv Kumar for agricultural

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operations due to receipt of injuries. He has not produced any documentary evidence with regard to his ownership of land nor Shiv Kumar was examined to prove his employment or payment of salary in order to establish claim *qua* loss of income. However, in view of the fact that the injured remained hospitalized for a period of five days due to head injury, it would be in the fitness of things if the claimant is allowed consolidated amount *qua* pain and suffering, transportation and services of an attendant. The claimant is awarded an amount of Rs.10,000/- in this regard.

In view of what has been discussed hereinbefore, the appeal is partly allowed. The claimant is awarded an additional amount of Rs.10,000/- payable with interest @ 7.5% per annum from the date of petition till realization.

07.11.2016 **(REKHA MITTAL)**
yakub **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No

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