

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.1192 of 2001

Date of Decision.10.08.2017

Satyawan son of Shri Mihi Ram

.....Appellant

Vs

Ravi Shankar and others

.....Respondents

Present: Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. Ravinder Arora, Advocate
for respondent No.4.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

C.M. No.1669-CII of 2003

The application has been filed under Order 41 Rule 27 of the Code of Civil Procedure for placing on record the hospital bills of Sir Ganga Ram Hospital and cash memos of different chemist shops from where the appellant-claimant purchased the medicines.

The contention of learned counsel for the applicant-appellant is that since the amount of ₹87,786/- spent by him is in continuation of the treatment taken for the injuries suffered in the accident, he is entitled for the aforesaid amount.

For the reasons stated in the application, the application is allowed and the medical bills vide Annexure A-1 and A-2 are taken on record.

FAO No.1192 of 2001

The appeal is for enhancement of compensation for injuries suffered by the claimant in a motor accident occurred on 05.02.1997. The

his wife on motor cycle bearing registration No.HR-50-0042 when a car bearing registration No.CH-01P-0184 driven by respondent No.1 hit the claimant from behind, resulting into fracture of his right ankle. In this regard, FIR bearing No.185 dated 6.2.1997 was also registered under Sections 279 and 337 IPC. The claimant was working as Driver in the Haryana Government and drawing salary of ₹5138/- per month.

The claimant was admitted in the hospital on 05.02.1997 where he was operated upon for compound fracture dislocation of right ankle by Dr. Pardeep Aggarwal, Orthopaedic Surgeon, who was examined as PW8. He deposed that surgery was performed upon the claimant for reduction of fracture and fixation and he was discharged from the hospital on 20.02.1997, however, re-admitted on 10.03.1997 when pins were removed from the heel and skin drafting was done. He was discharged on 11.03.1997 with advice to undergo another surgery on 18.06.1997.

Dr. Ravi Kumar from the department of Orthopaedic, GMCH, Sector 32, Chandigarh was examined as PW-6, who deposed that the appellant-claimant was admitted in the orthopaedic department on 5.1.1998 as a case of discharging sinus from right ankle and further diagnosed with chronic osteo mylistis lower and of right tibia and poor skin over the ankle joint. He was operated upon on 14.01.1998 and continued to visit for follow-up treatment regularly till 25.07.1998. His disability was assessed by 40% in relation to the right leg.

The Tribunal while assessing the compensation awarded a sum of ₹50,000/- for medical treatment. The claimant remained on earned leave from 06.02.1997 to 7.6.1997, half pay leave from 8.6.1997 to 14.11.1997 and on extra-ordinary leave i.e. without pay from 15.11.1997 to 4.3.1999.

The Tribunal provided ₹1.25 lacs for the period of leave as loss of income and ₹75,000/- for pain and suffering, thus, in total a compensation of ₹2,50,000/- has been awarded by the Tribunal.

Mr. Ashwani Talwar, learned counsel appearing on behalf of the appellant submits that after passing of the Award also, the appellant had undergone a surgical process and incurred expenditure on hospital charges and medicines. The bills with regard to the treatment taken have been sought to be placed on record by way of separate application under Order 41 Rule 27 CPC. The total amount spent on the treatment comes to ₹87,786/-, therefore, the claimant is entitled for the aforesaid amount as it is in continuation of the treatment taken for the injuries suffered in the accident took place on 5.2.1997. The Tribunal had assessed a very meager amount of ₹75,000/- for pain and suffering as it is very much clear that the appellant had undergone surgical procedure thrice. Nothing had been provided by the Tribunal for attendant charges, special diet and transportation, therefore, the award is liable to be modified.

On the contrary, Mr. Ravinder Arora, learned counsel appearing on behalf of the insurance company submits that the compensation assessed by the Tribunal is fair and just and there is no scope for further enhancement.

I have heard learned counsel for the parties and appraised the paper book. I am convinced with the argument raised by the counsel for the appellant that the expenditure incurred to the tune of ₹87,786/- is in continuation of the treatment taken for the injuries suffered in the accident occurred on 5.2.1997 and therefore, the appellant is entitled for the aforesaid amount. Besides this, I will provide another sum of ₹75,000/- for

pain and suffering in addition to what has already been assessed by the Tribunal and ₹5,000/- each for special diet, attendant charges and transportation, meaning thereby, the appellant shall be entitled to a sum of ₹1,77,786/-. This amount shall also attract interest @6% from the date of filing of the appeal till its realization. The liability shall remain the same as has been assessed by the Tribunal.

The award stands modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

August 10, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No