

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2285 of 2008 (O&M)

Date of decision:-16.08.2017

Ved Parkash

...Appellant

Versus

Vijay Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.B.K.Bagri, Advocate, for the appellant.

Mr.Angel Sharma, Advocate, for respondent No.1.

Ms.Shamsher Kaur, Advocate, for respondent No.3.

RITU BAHRI, J. (Oral)

Present appeal has been preferred by the claimant-appellant (for short 'the appellants'), against award dated 06.11.2007, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') vide which compensation to the tune of Rs.17,250/- was awarded to the claimant- Ved Parkash on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 07.08.2004, the deceased Satyabir Singh was going on a scooter bearing registration No.HR-14/7439 on the due left side of the road on a moderate speed. Appellant-Ved Parkash was sitting as a pillion rider. When the scooter reached near Village Karoli, then a tractor bearing registration No.HR-31C/0827 came from the opposite side in a rash and negligent manner and the same was being driven by the respondent No.1-Vijay Sigh and the tractor struck against the scooter. Both the occupants of the scooter fell down

and suffered multiple grievous injuries on the various parts of their bodies.

The accident took place because of the rash and negligent driving on the part of the respondent No.1-Vijay Singh while plying the tractor bearing No.HR-31-C/0827. A criminal case bearing FIR No.117 dated 07.08.2004 under Sections 279/337/427 IPC at Police Station Kosli was registered.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the injured was 31 years old and was going the job of plumber. His monthly income stated to be Rs.5,000/- The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Pain and suffering	Rs.5,000/-
2.	Loss of Income	Rs.5,000/-
3.	Medical bills	Rs.7250/-
	Total	Rs.17,250/-

Learned counsel for the claimant-appellant contends that the disability certificate Annexure P-19 has not been considered by the learned Tribunal for assessing the compensation qua disability. However, the same had not been proved by summoning any doctor.

A perusal of the medical bills Ex.P1 to Ex.P18, the documents Ex.P19 i.e. disability certificate, prescription slips Ex.P27 to Ex.P33, Ex.P22 to 28 are the outdoor patient cards of PGMIS Rohtak, where, petitioner has got treatment since 2004 till October 2010, shows that he has been suffering from injuries on the knee. The disability certificate has been issued by the Civil Surgeon, Rewari.

Learned counsel for the Insurance Company states that the date of certificate of the claimant is of the year 20.12.2006 which is after three years

suffered by the claimants in the incident.

After going through the documents Ex.P20 to P28, the claimant had been admitted in PGIMS Rohtak as he was suffering any specific injuries on the knee and necessary procedure has already been done. Hence, the disability certificate cannot be discarded even if it has been given after three years.

Learned counsel for the appellant has referred to the judgment of Supreme Court in the case of Raj Kumar Vs. Ajay Kumar and another,2011(2) RCR 101, wherein, recording of evidence of surgeons and doctors are necessary who have treated the injured at the time of accident. In paragraph 16 of the judgment, it has been observed that in case, the disability certificate are not contested by the respondent and have been marked by consent, thereby dispensing with the oral evidence.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments and keeping in view the medical bills Ex.P1 to Ex.P18, disability certificate with disability 44% with deformity of post traumatic marked stiffness of left knee (80%) with partial loss of ability (24%) and pain i.e. Ex.-19, prescription slips Ex.P27 to Ex.P33, Ex.P22 to 28 and the income of the appellant has taken Rs.5,000/- at the time of accident took place, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income = Rs.5,000/- per month Future prospect 50%= Rs.5000/- + Rs.2500= Rs.7500/- After applying multiplier loss of	Rs.5,90,400/-

	dependency= Rs.7500/- X 12 X 16= Rs.14,40,000/- Compensation on 41% disability= Rs.14,40,000/- X 41%	
2.	Diet and transportation	Rs.10,000/-
3.	Pain and suffering	Rs.10,000/-
3.	Medical bills	Rs.7250/-
4.	Loss of income	Rs.5,000/-
	Reassessed compensation	Rs.6,22,650/-
	Enhanced compensation	Rs.6,20,650/- Rs.17,250/- =Rs.6,05,400/-

Resultantly, the enhanced amount of compensation of Rs.6,05,400/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

16.08.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No