

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

FAO-4788-2011

Date of decision:26.4.2017

Ombir @ Kala

...Appellant

Versus

Parmod and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Sushil Bhardwaj, Advocate for the appellant

Mr.Rajneesh Malhotra, Advocate for respondent No.3.

SNEH PRASHAR, J.

By filing the present appeal, the appellant has sought enhancement of the compensation awarded to him by learned Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal') vide award dated 12.3.2011 on account of the injuries suffered by him in a motor vehicular accident that took place on 13.7.2009.

The submissions made by Mr.Sushil Bhardwaj, Advocate representing the appellant and Mr.Rajneesh Malhotra, Advocate for respondent No.3- Insurance Company have been considered and record perused.

Learned counsel for the appellant contends that the appellant suffered multiple injuries and remained admitted in hospital from the date of accident i.e. 13.7.2009 to 30.7.2009. He suffered 15% disability qua right lower limb and because of which the claimant will

have a problem in squatting, crossed leg sitting. Learned Tribunal ignored the said fact and did not award any amount for the disability suffered by the appellant. Also, only a meager amount of Rs.2000/- for pain and suffering and Rs.2000/- for transportation charges was allowed to the appellant.

Despite service, none has appeared on behalf of respondents No.1 and 2 and they are proceeded against ex-parte.

Admittedly, the accident, in which the appellant had suffered multiple injuries, took place on 13.7.2009. On the same day, he was admitted in General Hospital, Bhiwani. The appellant was 35 years old at the time of accident. As per MLR Ex.PA, the appellant suffered deformity e-inability to move the right lower leg and abrasions on other parts of the body. However, to prove his hospitalization period and the injuries suffered by him, the appellant did not examine the doctor, who treated him. He produced only the medical bills and the copy of the MLR. The amount incurred vide medical bills were allowed to the appellant while awarding compensation by learned Tribunal. But the fact remains that PW3 Dr.SS Dhankhar, Medical Officer, General Hospital, Bhiwani, who was a member of the medical board stated that the appellant had suffered disability to the extent of 15% on account of fracture of both bones right leg as per MLR MK/56/09 dated 13.7.2009. He was having malunited fracture with restriction of movement of right leg. He proved the disability certificate Ex.PW3/A. In his cross-examination, he deposed that the disability is qua right lower limb and

due to he has a problem in squatting, crossed leg sitting . He also stated that the appellant can work properly only by sitting on a chair. Considering the fact that the appellant suffered disability to the extent of 15%, a sum of Rs.30,000/- is allowed to him on account of disability.

The appellant remained admitted in hospital from 13.7.2009 to 30.7.2009. He must have suffered a lot of agony due to the injuries suffered by him. The medical bills to the tune of Rs.14,144/- produced by him have already been allowed by learned Tribunal. He must have spent amount on account of boarding and lodging and the family members of the appellant has attended him during the period of hospitalisation. Therefore, the amount awarded on account of pain and suffering, transportation charges appears to be on the lower side and the same is enhanced as under:-

1. Pain and suffering from Rs.2000/- to Rs.10,000/-
2. Transportation charges Rs.2,000/- to Rs.10,000/-.

The vehicle was insured but as the driver was not holding a valid and effective driving licence, which is a clear breach of terms and condition of the insurance policy, therefore, learned Tribunal has rightly exonerated respondent No.3- Insurance Company and fastened the liability of payment of compensation amount on respondents no.1 and 2.

Accordingly, the enhanced amount of Rs.46,000/- shall be paid to the claimant-appellant within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of filing the appeal,

till its realisation.

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

26.4.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No