

In the High Court of Punjab and Haryana at Chandigarh

FAO- 1536 of 2012(O&M)
Date of Decision:6.10.2017

Krishan Lal Miglani

---Appellant

vs.

M/s Kapoor Freight Carrier Private Limited and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Dinesh Arora, Advocate
for the appellant

Mr. Amit Jaiswal, Advocate
for respondent No. 2

Rekha Mittal, J.

The injured-claimant is in appeal seeking enhancement of compensation in regard to injuries sustained by him in a motor vehicular accident dated 19.3.2006.

The Motor Accidents Claims Tribunal, Rohtak (in short “the Tribunal”) has awarded an amount of Rs. 3,17,157/-, detailed hereunder:-

1	Loss of income during period of treatment and recovery	Rs. 39,600/-
2	Loss of future income qua disability	Rs. 2,69,280/-
3	Expenses on medical treatment	Rs. 3277/-
4	Pain and suffering	Rs. 5,000/-

Counsel for the appellant has staked claim for enhancement on three counts. The first submission made by counsel is that the claimant

marked medical bills Exs. P-8 to 54 and 56 but the Tribunal has allowed disbursement only qua bills Exs. P-20 to 23, 25, 54 and 56 amounting to Rs. 3277/-. The next submission made by counsel is that the Tribunal has assessed loss of future income by assessing income of the victim at Rs. 3300/- per month but the claimant was working as a driver, therefore, future loss of earnings needs to be enhanced. Compensation awarded by the Tribunal for pain and suffering is on lower side as the injured suffered disability to the extent of 85% owing to amputation of his right leg.

Counsel representing the insurance company has supported the award with the submission that the Tribunal, on a detailed consideration of the bills marked as exhibits, has rightly ignored claim of the injured qua bills other than ordered to be reimbursed. It has further been argued that as the application for compensation was filed under Section 163-A of the Motor Vehicles Act, 1988 (in short “the Act”), claimant cannot assert his income more than Rs. 3300/- per month. Another submission made by counsel is that in a petition under Section 163-A of the Act, compensation is to be awarded by following the structured formula provided in 2nd Schedule appended to Section 163-A of the Act.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

So far as income of the injured-victim taken into consideration for future loss of income due to disability, perusal of the award would make it evident that the claimant himself pleaded that he was earning Rs. 3300/- per month by working as a driver. This apart, a claim under Section 163-A of the Act can be maintained only if income of the injured is less than Rs.

40,000/- per annum. Under the circumstances, there is no justification for increase in compensation qua future loss of earning due to disability suffered by the victim.

The Tribunal has awarded an amount of Rs. 5000/- for pain and suffering. Para 4 of the 2nd Schedule appended to Section 163-A of the Act deals with general damages in case of injuries and disabilities. Clause (i) of para 4 provides for pain and sufferings and compensation in respect of grievous injuries is to the extent of Rs. 5000/-. As has been noticed hereinbefore, the claimant filed the application for compensation under Section 163-A of the Act, therefore, compensation awarded by the Tribunal for pain and sufferings cannot be faulted with.

This brings the Court to compensation for medical expenses. Under Section 163-A of the Act particularly Schedule 2nd thereof, compensation for medical expenses can be Rs. 15,000/- on the basis of actual expenses incurred supported by the bills/vouchers but not exceeding as one time payment. In the case at hand, the claimant marked bills Ex. P-8 to 54 and 56 but the Tribunal in para 20 of the Award has assigned reasons for rejecting the claim on the basis of bills other than seven bills of the value of Rs. 3277/-. The appellant has not disputed factual findings recorded by the Tribunal with regard to bills which were not ordered to be reimbursed. Indisputably, the claimant did not examine the person who issued the bills nor the treating doctor in order to prove that the medicines mentioned in those bills were actually consumed by the claimant. Even the medical prescriptions pertaining to bills are not a part of records of the Tribunal. Under the circumstances, no error much less perversity can be

noticed in findings of the Tribunal discarding the bills other than those of which reimbursement has been allowed.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

6.10.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No