

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

Date of decision: 10.8.2017

1.

FAO No.139 of 2013(O&M)

Rajender Sharma

.....Appellant

VERSUS

Ram Khilari and others

.....Respondents

2.

FAO No.140 of 2013(O&M)

Sanjay Sharma

.....Appellant

VERSUS

Ram Khilari and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ram Bilas Gupta, Advocate for the appellant(s).

Mr. A.S. Virk, Advocate for respondent No.2.

Mr. R.C. Kapoor, Advocate for respondent No.3.

REKHA MITTAL, J.

This order will dispose of FAO Nos.139 and 140 of 2013 as these have emerged out of same award dated 31.07.2012 passed by the Motor Accidents Claims Tribunal, Faridabad (in short 'the Tribunal') whereby compensation has been awarded in favour of appellants Rajender Sharma and Sanjay Sharma on account of injuries sustained by them in a motor vehicular accident that took place on 07.06.2011.

FAO No.139 of 2013

Rajender Sharma- appellant remained admitted in the hospital from 07.06.2011 to 20.06.2011 and later from 26.06.2011 to 02.07.2011. He produced on record medical bills qua treatment during this period to the tune of Rs.2,26,421/-. Admittedly, an amount of Rs.2,00,458/- was reimbursed by his department and the remaining amount of Rs.25,963/- has been paid towards compensation by the Tribunal. In addition, an amount of Rs.20,000/- for pain and suffering has been awarded making total compensation to Rs.45,963/-.

Counsel for the appellant has submitted that the Tribunal has wrongly rejected claim of the appellant for medical expenses incurred during treatment in Apex Multi Speciality and Laproscopy Hospital, Faridabad and documents (bills Ex.P8 and P9) have been proved on record by Dr. B.K. Sharma, proprietor of the said hospital. Another submission made by counsel is that a witness from his department C.P. Singh, Horticulture Assistant, Department of Environment PW-4 was examined and he has proved that the appellant remained away from his work w.e.f. 07.06.2011 to 01.02.2012 and for this period, he was granted full pay medical leave for 120 days and for remaining days he was on earned leave. It has been argued that as the appellant has exhausted medical leave and availed earned leave for a period of about 90 days, he is entitled to be reimbursed Rs.20,200/- per month (salary drawn) for the period of absence. In addition, it is argued that compensation awarded for pain and suffering is on lower side and no compensation has been awarded for transportation, special diet and services of an attendant.

Counsel representing the insurance company has submitted that the Tribunal has rightly rejected claim of the appellant qua bills Ex.P8 and P9 as the claimant failed to adduce evidence that the treatment in Apex Multi Speciality and Laproscopy Hospital, Faridabad had any nexus with the injuries sustained by the victim in the accident. Further argued that in the discharge summary Ex.P7 brought by Dr. B.K. Sharma PW-6 even it was not mentioned that patient complained of bloating of abdomen and colicky pain off and on. The Tribunal has rightly allowed compensation to the tune of Rs.20,000/- for pain and suffering.

While refuting contentions of counsel for the appellant for reimbursement of salary of 7 months, it has been argued that as medical leave was allowed with full salary, he is not entitled to any compensation in this regard.

I have heard counsel for the parties, perused the paper-book and the records.

So far as the claim for compensation on the basis of bills Ex.P8 and P9 is concerned, Dr. B.K. Sharma has not deposed that treatment given to the appellant had any connection with the injuries sustained by him in the accident. It is not plea of the claimant that Dr. B.K. Sharma was his treating doctor when he remained admitted in his hospital from 28.01.2012 to 07.02.2012. As has been rightly pointed out by counsel for the insurance company, in the discharge summary Ex.P7 there is no reference that the patient complained of bloating of abdomen and colicky pain off and on. In absence of any clear evidence to establish nexus between the injuries and treatment given in Apex Multi Speciality and Laproscopy Hospital, Faridabad, I do not find any error in findings of

the Tribunal rejecting claim of the appellant for medical expenses on the basis of bills Ex.P8 and P9.

The appellant remained admitted in the hospital for treatment of injuries sustained in the occurrence for a period of about 20 days. It is not the case of appellant having suffered any disability owing to injuries caused in the accident. Under the circumstances, compensation of Rs.20,000/- for pain and suffering does not warrant enhancement. However, the appellant shall be entitled to an amount of Rs.20,000/- for transportation, special diet and services of an attendant etc.

This brings the Court to compensation for loss of income during the period of treatment. As has been noticed hereinbefore, the appellant remained hospitalised for a period of about 20 days on two occasions with a gap of about 6 days between his first discharge and second admission. He was discharged from the hospital on the second occasion on 02.07.2011 and the discharge summary is Ex.P4. Perusal of the discharge summary would make it evident that the doctors did not advise rest to the appellant though he was advised to have follow-up in the OPD. Testimony of Rajender Sharma - appellant is conspicuously silent about the period of his absence from duty much less justifying his staying away from his office for a period of about 7 months. In the light of materials on record, it can be safely held that due to sustaining of injuries, the appellant was not in a position to attend to his office maximum for a period of 2 months including period of hospitalisation.

Sh. C.P. Singh PW-4 has deposed that the appellant was granted full pay leave for 120 days and earned leave for the remaining period. As the appellant exhausted his two months medical leave for the

purpose of treatment and recovery, he is entitled to compensation of Rs.40,400/- (salary of two months) for exhausting medical leave of that period.

No other point has been raised.

In view of the above, the appellant shall be entitled to additional compensation of Rs.60,400/- payable with interest at the rate of 7.5% per annum from the date of petition till realisation.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

FAO No.140 of 2013

Sanjay Sharma – appellant remained admitted in the hospital from 07.06.2011 to 10.06.2011. The Tribunal has awarded compensation of Rs.98,476/- in regard to expenses on medical treatment including Rs.15,000/- for pain and suffering.

Counsel for the appellant would urge that compensation assessed by the Tribunal for pain and suffering is on lower side. No compensation has been awarded for loss of income, expenses on transportation and special diet and services of an attendant.

Counsel for the insurance company would submit that adequate compensation has been awarded by the Tribunal.

The Tribunal has allowed reimbursement of medical bills proved on record. The appellant remained admitted in the hospital for a period of 4 days. He has not suffered any disability on account of receipt of injuries. There is no clear evidence available on record with regard to income of the injured. Taking a reasonable view on the basis of materials on record, the appellant is awarded another amount of Rs.20,000/- for loss

of income, transportation, special diet and services of an attendant etc. The additional compensation shall be payable with interest at the rate of 7.5% per annum from the date of petition till realisation.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

AUGUST 10, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no