Sr. No. 207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3953 of 2013(O&M)
Decided on: 11th August, 2017

Roop Chand

..........Appellant

versus

Baljit Singh and others

..........Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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

Mr. M.K.Garg, Advocate
for the respondents.

Rajbir Sehrawat, J.(Oral)

This is an appeal filed for enhancement of compensation by the injured claimant; challenging the award passed by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali (for short, 'the Tribunal') whereby an amount of ₹53,123/- was awarded as compensation to the appellant/claimant.

The brief facts as mentioned in the case are that on 4.10.2010 at about 8:30 pm, the appellant alongwith Harbhajan Singh was going from Zirakpur to Dayalpura. The claimant was a pillion rider whereas Harbhajan Singh was driving the motor cycle; at a slow speed and on the left sife of the road. When they reached on the chowk of Lohgarh-Zirakpur, a car bearing Registration No. PB-03-G-2402 (hereinafter referred to as the offending vehicle) came from the opposite direction. This was being driven by respondent No. 1 at a fast speed and in a negligent manner. The offending car struck against a motor cycle. As a result, both of them fell on the road and received injuries. The appellant herein was taken to the Govt. Medical College and Hospital, Sector 32, Chandigarh. The appellant suffered fracture on his right leg. Because of the fracture, the claimant had to spend Rs. 1 lakh on the treatment. FIR No. 294 dated 8.10.2010 was also recorded regarding the present accident.

The respondents filed a written statement and denied the accident in the manner as claimed in the claim petition. The Insurance Company had also taken a plea that the driver of the offending vehicle was not having a valid driving license at the relevant time. The Insurance Company also took another plea available to it under the provisions of the Motor Vehicles Act.

The appellant proved on record the copy of the FIR Ex:P1 and the medical bills Ex:P5 to Ex:P24. Dr. Rakesh Kumar, Orthopaedic Surgeon was examined as PW2 to prove the disability certificate of the appellant. The disability certificate was proved on record as Ex:PW2/A.

Respondents No. 1 and 2 proved on record a copy of the licence as Ex:R1, the insurance policy as Ex:-R2 and the Registration certificate of the vehicle as Ex:R3. The Insurance Company, respondent No. 3 also tendered a copy of the insurance policy as Ex:R4.

After hearing the parties and perusing the records, the Tribunal has held the offending vehicle to be responsbile for causing the accident due to rash and negligent driving. While assessing the compensation, the Tribunal has held that the disability of 20% qua the claimant has been proved on record. Accordingly applying the approximation of ₹2,000/- per precentum of permanent disability, the Tribunal awarded an amount of ₹40,000/- on account of physical permanent disability of the claimant. Besides this, the claimant was awarded ₹5,000/- on account of loss of income. While awarding this amount the income of the appellant was assessed to be ₹ 5,000/- per month and the appellant was held to have remained away from work for one month. Hence, ₹5,000/- was awarded as loss of income. Besides this, ₹8123/- was awarded as expenditure on account of his treatment. Therefore, a total sum of ₹53,123/- was awarded as compensation by the Tribunal.

While arguing the case, learned counsel for the appellant has argued that since the disability of appellant has been assessed to be 20% qua his leg, therefore, future earning of the appellant shall accordingly be reduced and he has to be compensated on account of the future loss of earning as well. For this purpose, learned counsel has placed reliance on the judgment of the Hon'ble Supreme Court rendered in ***2014(1) RCR(Civil)(SC) 766 titled as Syed Sadiq etc. vs. Divisional Manager, United India Ins. Co.*** Accordingly, his submission is that the appellant should be awarded compensation on account of future loss of earning; to the extent of 20% of the income assessed by the Tribunal by applying the multiplier according to the age of the appellant; in terms of the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma vs. Delhi Transport Corporation and another, 2009 ACJ-1298.*** It is his further submission that the appelalnt could not resume his work at all for a minimum period of two months. Therefore, the loss of income for the current period has also to be enhanced accordingly.

On the contrary, learned counsel for the respondent-Insurance Company has argued that the claimant has sufficiently been compensated and that no increase is called for in this case.

After hearing learned counsel for the parties and perusing the records with the able assistance of learned counsel, this Court find itself in agreement with the submissions made by learned counsel for the appellant. Keeping in view the fact that the appellant had suffered fracture in his leg and he was operated upon and remained as an indoor patient for about a week, it can be safely presumed that he would not have been able to restore his routine earning venture for at least two months. Accordingly he is granted compensation on account of loss of current income for two months. Hence an amount of ₹ 10,000/- (5000 x 2) is awarded on this count.

So far as the second argument of learned counsel for the appellant regarding future loss of income is concerned, that also deserves to be accepted in terms of the judgment of the Hon'ble Supreme Court rendered in the case of ***Syed Sadiq etc. (supra).*** Accordingly, taking the income of the appellant to be ₹ 5,000/- per month, as assessed by the Tribunal, the loss of future income at the rate of 20% is assessed to be ₹1000/-(5000 x 20%) per month. Hence the loss of future income comes to be ₹12,000/-(1000 x 12) per annum. Since the age of the claimant has been mentioned as 39 years in the claim petition itself, therefore, the multiplier of 15 is applied in this case as per the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma (supra).*** Hence, the total loss of future income is assessed to be ₹1000 x 12 x 15 =1,80,000/-. Besides this, ₹8123/- towards loss of medical expenses is retained as such as was awarded by the Tribunal since there does not appear to be any illegality in the award in this regard.

Resultantly, the appellant/claimant is awarded an amount of ₹ 2,38,123/- is awarded to the claimant as per the table given below:-

Sr. No.	***Heads of Compensation***	***Amount(₹.)***
1	**For Disability**	**40,000/-**
2	**Loss of Current Income**	**10,000/-**
3	**Loss of Future Income**	**1,80,000/-**
4	**Loss of Medical Expenses**	**8,123/-**
	Total	**2,38,123/-**

The Interest on the amount of compensation is retained as was awarded by the Tribunal.

In view of the above, the award passed by the Tribunal is modified to the extent mentioned extent. The present appeal is allowed in the above said terms.

11th August, 2017 **[RAJBIR SEHRAWAT]**
Shivani Kaushik **JUDGE**

Whether speaking/reasoned *Yes*

Whether Reportable *Yes*