

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4411-2013 (O&M)
Date of decision: 10.10.2017

Naresh Kumar ...Appellant

Versus

Pradeep Kumar and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate for the appellant.

Mr. Rajesh Bansal, Advocate
for respondent No.3-Insurance Company.

REKHA MITTAL, J. (Oral)

The injured victim is in appeal seeking enhancement of compensation in respect of injuries sustained in a motor vehicular accident that took place on 18.11.2011.

The Tribunal has awarded a sum of Rs.1,85,261/-, detailed hereunder:-

Medical Expenses	Rs.1,32,261/-
Pain and Sufferings	Rs.20,000/-
Special Diet	Rs.15,000/-
Transportation	Rs.15,000/-
Loss of Income	Rs.3,000/-
Total	Rs.1,85,261/-

Counsel for the appellant has submitted that compensation awarded by the Tribunal under various heads except medical expenses is on lower side and needs to be enhanced. Another submission made by counsel

is that the injured suffered I.Q. (Intelligence Quotient) disability of 25% but no compensation in this regard has been allowed.

Counsel representing the insurance company, on the contrary, has supported the award with the submission that adequate compensation has been assessed by the Tribunal.

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

Perusal of the documents with regard to treatment of the injured makes it evident that the injured remained hospitalized for a period of 8 days from 18.11.2011 to 25.11.2011, in Life Care Hospital, Rewari. The doctor who treated the injured has not been examined before the Tribunal, however, it appears that the injured sustained injury on his head. Nothing has been mentioned in the documents particularly discharge summary Ex.PW1/C that the injured was advised rest after discharge.

As the injured victim sustained head injury and remained hospitalized for a period of 8 days coupled with the minimum wage available to a casual worker at that time, the claimant is awarded an amount of Rs.5,000/- for loss of income i.e. additional sum of Rs.2,000/- under this head.

Compensation awarded by the Tribunal with regard to pain and sufferings, special diet and transportation does not warrant enhancement. However, the claimant is awarded an amount of Rs.5,000/- for services of an attendant.

The claimant examined Dr. Krishan Kumar PW3 to prove

disability certificate Ex.PW3/A whereby his I.Q. (Intelligence Quotient) was assessed at 70 i.e. border line level of Intelligence Quotient. The learned Tribunal has discarded claim of the injured in this regard on the basis of facts elicited in cross-examination of Dr. Krishan Kumar. Dr. Krishan Kumar has stated in his cross-examination that it is difficult to say that this I.Q. (Intelligence Quotient) disability of 25% was with the patient from time of his birth or childhood. Counsel for the claimant has fairly informed that there is no material on record to prove as to what was I.Q. (Intelligence Quotient) level of the injured prior to the occurrence to record a positive finding that lower level of I.Q. (Intelligence Quotient) assessed by the Board is because of sustaining injury in the occurrence. In the given scenario, I do not find any error in findings of the Tribunal rejecting claim of the injured for grant of compensation on the basis of disability certificate Ex.PW3/A. This apart, the claimant has not examined his treating doctor in order to establish that nature of injury sustained by the victim could cause loss of intellect.

No other point has been raised.

For the foregoing reasons, the claimant shall be entitled to additional amount of Rs.7,000/-, payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

10.10.2017

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No