

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

FAO No. 4938 of 2013 (O & M)

Date of Decision:-09.5.2017

Shamsher Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Naresh Kumar Manchanda, Advocate
for the appellant.

Mr. P.S. Bajwa, DAG, Punjab.

HARI PAL VERMA J.(Oral)

CM No.20931-CII of 2013

This is an application seeking condonation of delay of 21 days
in filing the appeal.

For the reasons mentioned in the application, the same is
allowed and the delay of 21 days in filing the appeal is condoned.

CM No.20932-CII of 2013

Allowed as prayed for.

FAO No.4938 of 2013

The appellant-claimant has filed the present appeal against the
award dated 26.3.2013 passed by the Motor Accident Claims Tribunal,

Faridkot seeking enhancement in the compensation.

The claimant has filed the claim petition under Section 166 read with Section 140 of the Motor Vehicle Act, 1988 for grant of compensation on account of injuries sustained by him in the motor vehicle accident, which took place on 4.3.2010. The claimant received multiple injuries on various parts of his body including jaw, head, left hand and left leg. After operation, steel plate was fixed in the jaw of the claimant and he remained admitted in the hospital from 4.3.2010 to 09.3.2010 on account of fracture of his mandible right and other injuries on his person. Surgery of right mandible of claimant was conducted on 7.3.2012 and plate was implanted in right mandible. AW2 Dr. Balraj Singh has deposed that in order to remove the plate from right mandible, another surgery will be required. Perusing the nature of injury, the Tribunal has awarded total amount of Rs.34,000/- which includes Rs.15,000/- on account of pain and suffering, special diet, attendant charges and transportation charges etc. whereas Rs.18600/- were granted for medical bills.

Learned counsel for the appellant has argued that the claimant was a student of 6th class and on account of this injury, he had to remain bed ridden for long time. The claimant being a student has suffered a great loss. His career has ruined. The Tribunal has not awarded adequate compensation. No amount of compensation has been awarded for the surgery required to be undertaken by the claimant for the removal of plate from the right mandible, despite clear admission on the part of AW2 Dr. Balraj Singh. Even the compensation on account of pain and suffering and

attendant charges has not adequately been awarded.

On the other hand, learned counsel for the respondent has argued that taking into consideration the nature of injuries, adequate compensation has already been awarded by the Tribunal. There is no scope of further enhancement/modification of compensation awarded to the appellant-claimant. Even, the appellant has not produced any medical evidence that another surgery is required or has been undergone by the claimant.

I have heard learned counsel for the parties.

There is no doubt that the claimant was injured in the accident and on account of the accident, fracture of right mandible and another injuries on his person were inflicted. AW2 Dr. Balraj Singh has admitted that the claimant remained in hospital from 4.3.2010 to 9.3.2010. Another surgery has been advised by the said doctor for the removal of the plate from his right mandible. Thus, the removal of plate process is more or less is another surgery. Therefore, this Court finds that the Tribunal has not considered the compensation for the surgery which was required to be undertaken by the claimant necessary for the removal of the plate from his right mandible.

Accordingly, this Court considers that another amount of Rs.26,000/- is required to be granted to the claimant, which includes subsequent surgery charges for the removal of the plate from his right mandible as well as special diet, attendant charges and transportation charges, which the claimant might have incurred or is likely to be incur in

case the surgery has not been conducted so far.

With the aforesaid modification in the award, the appeal stands disposed of.

May 09, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No