

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

Sr. No.246

FAO No.8621 of 2015 (O&M)

Date of decision: 05.09.2017

Ajmer Singh

....Appellant

versus

Harinder Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rahul Jaswal, Advocate
for the appellant.

* * *

DEEPAK SIBAL, J. (Oral)

There is a delay of 527 days in filing of the present appeal. The condonation of such delay is sought on the grounds that the appellant was not advised by his counsel to file the present appeal; that he was not aware about the technicalities of law and that as soon as he came to know that there did exist a remedy to file an appeal seeking enhancement of compensation, he immediately contacted his counsel who filed the present appeal.

The contents of the application are vague. It is bereft of any detail as to when the appellant procured a copy of the impugned award; who was his counsel who did not advise him to file an appeal and when did he contact him for seeking advice. The application also does not contain any specifics as to when and from whom did the appellant come to know that he could file the present appeal. Even otherwise, ignorance of law is no excuse.

Irrespective of the above delay, learned counsel for the appellant has been heard on merits.

The appellant filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act') before the Motor Accident Claims tribunal, Ropar (for short the 'tribunal') seeking therein compensation on account of injuries sustained by him in an accident.

The case set up by the appellant was that on 19.12.2011, he alongwith his brother Nirmal Singh were travelling in a Truck bearing registration No.PB-12-E-8053 and when they reached in the area of Banur, District Patiala, another Truck bearing registration No.HR-37D-5051, which was being driven by respondent No.1 in a rash and negligent manner struck their truck, as a result of which he and his brother sustained serious injuries. On 19.12.2011, the appellant was admitted to Govt. Medical College and Hospital, Chandigarh and remained there till 21.01.2012. Thereafter he was confined to bed for about 42 days. It was submitted that while in the hospital, iron rods were inserted in his legs.

The respondents, on appearance before the tribunal denied the claim set up by the appellant.

The tribunal after holding that the appellant received injuries due to an accident caused on account of rash and negligent driving of respondent No.1 awarded to the appellant a total compensation of Rs.1,53,477/-. Interest was also granted.

Learned counsel for the appellant seeks enhancement of the awarded compensation on the ground that as per certificate dated 23.08.2012, which was duly exhibited before the tribunal, the appellant is shown to have suffered 30% disability. However, for such disability no

compensation had been awarded by the tribunal. Enhanced compensation on the ground of loss of earning was also claimed.

It is true that the above certificate was exhibited but mere tendering or admission of the same in evidence would not entitle him to any relief. The same was required to be proved. The document in question is found to be certified by two doctors. However, neither of them were produced by the appellant. One Dr. Saurabh Sharma, who was produced by the appellant as PW-3 only deposed with regard to the treatment given by him to the appellant. He neither said anything with regard to the above certificate nor the extent of permanent disability allegedly suffered by the appellant.

On repeated queries, no other evidence showing the extent of disability suffered by the appellant was pointed out by learned counsel appearing on behalf of the appellant.

So far as the claim with regard to loss of earning of the appellant on account of the accident in question is concerned, no evidence in that regard is found to have been led and proved by the appellant, in the absence of which no such claim can be granted.

No other point was urged.

In view of the above, both on the ground of delay as also on merits, the appeal is dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

September 05, 2017

Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No