

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1038 of 2001 (O&M)
Date of Decision : 27.04.2018

Anil Kumar

....Appellant

Versus

Dalip Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Saurabh Arora, Advocate
Amicus curiae for the appellants.

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

Mr. R.K. Bashamboo, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal by Anil Kumar against award dated 25.04.2000 passed by Motor Accident Claims Tribunal, Kurukshetra, whereby claim petition filed by appellant seeking compensation for injuries suffered by him in an accident with Matador bearing registration no. HR-37-3996 (later referred to as 'the offending vehicle') was dismissed in view of the finding on issue no. 1 that the claimant has failed to prove that the accident was caused due to rash and negligent driving of the driver of offending vehicle.

2. At the very outset, it has been pointed out that finding of the Tribunal that claimant has failed to prove that the accident was caused due to rash and negligent driving of the offending vehicle, has been set aside by a coordinate Bench of this Court in an appeal filed by another injured Kamlesh Khurrana bearing FAO No. 324 of 2001 decided on 03.03.2010.

3. Now the only question remains to be decided is regarding quantum of compensation to which claimant is entitled.

It is not disputed that claimant remained hospitalized from

26.06.1996 to 10.07.1996. PW-1 Dr. P.K. Soni, who treated the claimant, has stated that he operated him for his injuries under general anesthesia for necrosectomy of the wound and wound closure. He was given POP back splint and was kept under observation and for regular dressings. He had received a sum of ₹4650/- in respect of operation charges, private room charges, etc. vide receipt Ex. PA. Thereafter, claimant had been getting dressings of his wounds daily and paying ₹20/- as dressing charges till the date of recording his statement on 27.08.1997 i.e. after about 14 months of the accident. On the day he deposed before Tribunal, there was a wound on the back of his right leg for which skin grafting was advised.

5. Claimant appeared for his statement on 07.01.1998 and stated that his wound was still oozing and the doctor had suggested skin grafting for which expenses of ₹20,000/- would be incurred. He has spent a sum of ₹40,000/- on his treatment and was paying ₹20/- daily as dressing charges.

6. Keeping in view above statements of claimant and Dr. P.K. Soni, claimant is entitled to compensation of ₹10,000/- towards medical expenses, which includes payment to Dr. P.K. Soni, dressing charges, medicines expenses etc. He remained in hospital for about 15 days and required nutritious diet and also services of attendant. On this score he is awarded another compensation of ₹10,000/-. For pain and suffering and loss of income, he is awarded compensation of ₹20,000/-. He required constant medical attention and was getting dressing even after 14 months of the accident and his wounds were oozing on the day his statement was recorded. Towards future medical expenses, he is awarded compensation of ₹30,000/-. For repeated visits to hospital, a compensation of ₹5000/- is awarded to him towards transport expenses. In this manner, total compensation to which

claimant is entitled, works out to ₹75000/-.

7. As per judgment in appeal (FAO-324-2010), the liability to pay amount of compensation shall be jointly and severally of respondents no. 1 to 3. Accordingly, this appeal has merit and is allowed in above terms. Award dated 25.04.2000 passed by the Tribunal is set aside and claim petition filed by claimant-Anil Kumar is allowed. He is awarded compensation of ₹75,000/-. Claimant is also entitled to interest @ 7% per annum from the date of filing of instant appeal till actual realization. Respondent no. 3- Insurance Company being insurer of the offending vehicle will deposit the amount of compensation in bank account of claimant or pay the same to him through demand drafts.

April 27, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No