

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 925 of 2001

Date of Decision: 05.12.2018

Lajjo Devi (deceased) through her LRs

.....Petitioner

Vs.

Jasbir Singh alias Jai Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Nand Lal Sammi, Advocate, for the appellants.

Mr. Deepak Arora, Advocate, for respondent no. 1.

Mr. S.K. Bawa, Advocate, for LRs of respondent no. 2.

Mr. Manmohan, Advocate,
for respondent no. 3-insurance company.

AMOL RATTAN SINGH, J. (Oral)

By this appeal, the appellant (now represented through her legal representatives) seeks higher compensation than what was awarded by the learned Motor Accidents Claims Tribunal, Patiala, vide the impugned Award dated 19.08.2000, (Rs. 2,00,000/-), on account of the injuries received by her in a motor vehicle accident, that is stated to have taken place on 19.10.1997.

The factum of the accident is not denied even by the respondent-insurance company, which has filed FAO No. 2331 of 2000 impugning the same Award, on the ground that the insurance company was not liable to pay compensation as the driver of the 'offending vehicle', i.e. respondent no. 1, was not carrying a valid driving licence and consequently, the company is not liable to indemnify the owner thereof, i.e. respondent no. 2 in this appeal (also now represented by her legal representatives).

Thus, the challenge in the appeal by the company only being to the aforesaid extent, the only question to be decided in this appeal filed by the

claimant, is whether the aforesaid compensation is sufficient or not (whether payable by the owner of the vehicle or by the company that insured it).

2. A perusal of the findings of the learned Tribunal on issue no. 2 shows that it was contended that the right leg and right arm of the appellant had been fractured in the accident, after which she was taken to the PGIMER Chandigarh, where she remained admitted for one month.

A disability certificate was also issued in her favour on 17.09.1999, with the Convener of the Disability Board (Prof. Jaswant Rai), having testified as AW-3 as regards the disability. However, he clarified his statement on the disability suffered by the appellant, which is stated by learned counsel appearing for her to be a shortening of the leg, to be a temporary disability that was to be re-assessed after a period of three years.

A perusal of the said certificate (Ex.A1) shows that the disability was shown (in the certificate) not only on account of the shortening of the leg but on account of the following issues:-

“Fracture shaft of homers right, grade III compound with non-union, with total stiff shoulder joint, with malunited supracondylar fracture shaft femur with shortening and restricted movement (right side).”

3. The learned Tribunal further goes on to notice in the impugned Award that the appellant-claimant did not lead any evidence with regard to the medical expenses incurred by her on her treatment, but keeping in view the fact that she remained admitted in hospital for about a month and obviously underwent pain and suffering with the aforesaid disability also shown in her certificate, it awarded a composite amount of compensation to the tune of Rs. 2,00,000/-, as already noticed.

4. Before this Court, learned counsel for the appellant submits that the Tribunal wholly erred in not appreciating the fact that the disability was to the extent of 94%, shown to be qua the whole body as per the said certificate and hence, Rs. 2,00,000/- is a highly inadequate amount.

He further submits that even though the appellant could not produce the bills of the medical expenses incurred by her, the inference would be that for the kind of medical issues that she suffered, the bills would be sufficiently high.

He further points to the order of this Court dated 05.02.2016, in which it is recorded that he (learned counsel) sought time to take instructions with regard to whether any disability was still being suffered by the appellant (in respect of which she would have received a final disability certificate, the previous disability described to be a temporary one by the doctor testifying in her favour before the Tribunal).

4. However, despite almost three years having gone by since that date, there is no application filed even under Order 41 Rule 27 of the CPC to lead any additional evidence in the form of any such certificate of permanent disability, with learned counsel having already submitted that the appellant has died, with no such disability certificate obtained by her.

That being so and it therefore not being determinable as to whether the disability suffered by her was actually permanent or not, and with no bills produced before the Tribunal or this Court with regard to expenses occurred by her on her treatment, I find no ground to accept the contention that the sum of Rs. 2,00,000/- awarded by the Tribunal was inadequate.

Consequently, this appeal is dismissed.

December 05, 2018

nitin/vcgarg

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes
No.