

(102) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 335 of 2003
Date of decision: 15.11.2018

Manoj Kumar

.... Appellant

Versus

Anil

.... Respondent

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present : Mr. K. Vardhan Verma, Advocate and
Mr. Sandeep Kotla, Advocate for the appellant.

None for respondents.

B.S. Walia, J.

[1] No one has put in appearance on behalf of the respondents despite second call. Since the appeal is of the year 2003, therefore, I am not inclined to adjourn the matter.

[2] Appeal has been filed seeking enhancement of compensation of ₹ 35,000/- awarded to the appellant on account of injuries sustained in a motor vehicular accident on 10.01.2000.

[3] The appellant had filed a claim petition pleading that he had sustained injuries including fracture on the left hand as well as on the head, he was paralysed and had suffered a permanent disability, that he had spent ₹60,000/- on his treatment, that he was ITI diploma holder but his future had become dark since he was unable to move without the help of an assistant.

Prayer was for award of compensation of ₹ 3,50,000/-.

[4] The only evidence for the injuries sustained was the oral statement made by the appellant who stepped into the witness-box as PW-2 and stated that he sustained fracture on the leg and was admitted in the Civil Hospital, Sonapat from where he was referred to Rohtak, Medical College where he remained admitted for about 3 weeks and spent about Rs.60,000/- on his treatment and that the treatment was still going on.

[5] The learned Motor Accidents Claims Tribunal, Sonapat (hereinafter referred to as “the Tribunal”) by taking into account that there was no material on record to show that the petitioner had sustained a fracture or disability as also that no disability certificate had been got prepared, record from Rohtak Medical College had not been summoned but that ₹24,141 (rounded off to ₹25,000/- on account of the plea that the appellant had lost some of the receipts) had been spent on the treatment and by adding ₹5000/- on account of pain and suffering and ₹5000/- for special diet, awarded compensation of ₹35,000/-.

[6] Learned counsel for the appellant states that even though there is no evidence on record with regard to the duration of hospitalization except the oral statement but the fact remains that the Tribunal assessed the amount of medical expenses incurred at ₹ 25,000/-. Learned counsel contends that the same goes to show that the appellant sustained number of injuries, which were not simple, consequently, the appellant had to incur a huge amount i.e. ₹ 25,000/- for getting medical treatment. Accordingly, the compensation for pain and suffering, special diet, transportation etc. ought to be more than what was awarded.

[7] I have considered the submission of learned counsel for the appellant. Apparently, no evidence was led before the learned Tribunal nor

the injuries sustained. The only evidence which was led, was with regard to incurring of expenditure of ₹ 24,141/- on the treatment of the appellant. The same goes to show that the injuries sustained by the appellants were not minor. Although it is not possible to visualize the injuries sustained in the circumstances as such, however the injuries were not minor/simple. Therefore, I am of the opinion that keeping in view sum of ₹25,000/- incurred by the appellant on his medical treatment, a sum of ₹5000/- awarded for pain and suffering and ₹5000/- for special diet is on the lower side.

[8] Accordingly, the amount of compensation for pain and suffering is enhanced from ₹ 5000/- to ₹ 20,000/- while for special diet, it is enhanced from ₹ 5000/- to ₹ 15,000/-, besides, a sum of ₹ 5000/- is awarded on account of transportation charges.

[9] In the light of the position as noted above, as against compensation of ₹ 35,000/- awarded by the learned Tribunal, the appellant is held entitled to compensation of ₹ 65,000/- along with interest at the rate of 9% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[10] Accordingly, the appeal is allowed by modifying the award dated 03.12.2002 passed by the learned Tribunal to the extent as noted above.

(B.S. Walia)
Judge

15.11.2018
amit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No