

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.29122-CII of 2014 in/and
FAO No.10580 of 2014

Date of Decision : 15.11.2018

Suresh

....Appellant

VERSUS

Wakil and others

...Respondents

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

Present: Mr. Pankaj Bali, Advocate for the appellant.

Mr. Varun Singh Dhandi, Advocate for
Mr. Yashveer Kharb, Advocate
for respondent No.1.

Respondent No.2 *ex parte* vide order dated 29.08.2017.

Ms. Sheenu Sura, Advocate for respondent No.3.

B.S. WALIA, JUDGE (ORAL)

CM No.29122-CII of 2014

For the reasons as are mentioned in the application, the same is allowed and the delay of 59 days in late filing of the appeal is condoned, subject to all just exceptions.

FAO No.10580 of 2014

1. Appeal has been filed seeking enhancement of compensation on account of the appellant having sustained injuries in a motor vehicular accident on 20.4.2011. The appellant sustained multiple fractures i.e. Trochanteric fracture, femur shaft on lower side and fracture tibia on right side for which he was

operated upon on 24.2.2011 and 29.4.2011 and was discharged from hospital on 10.5.2011. Total medical expenses incurred as per medical bills Ex.P6 to Ex.P44 worked out to ₹46,900/-. As per disability certificate Ex.P-63, the claimant was shown to have suffered disability to the extent of 20%. Since the disability was qua particular limb and by calculating the same qua the whole body, it was treated as 10% disability.

2. On the basis of the evidence led, the Tribunal awarded the following compensation:

Injury case	Age	38 years
Period of hospitalization	20.4.2011 to 10.5.2011	21 days
Occupation and income	Shopkeeper	
	Heads of claim	
1.Loss of income	Nil	
2.Medical expenses including medicines	₹46,900/-	
3.Attendant charges for 21 days and other expenses	₹21,000/-	
4. Special diet	₹5,000/-	
5. Pain and suffering	₹20,000/-	
6. Disability 10%	₹20,000/-	
7. Loss of earning capacity	Nil	
Total	₹1,12,900/-	

3. Learned counsel for the appellant has contended that despite the fact that the appellant, by profession a shopkeeper was admitted in hospital for close to 21 days yet he was not paid any amount on account of loss of income, besides, the compensation awarded on account of pain and suffering, as well as special diet was on the lower side. Moreover, no amount was awarded on account of transportation charges.

4. Per contra learned counsel for respondent No.3 contended that the compensation awarded was just and proper.

5. I have considered the submissions of learned counsel for the parties and am of the view that compensation awarded is liable to be enhanced as the appellant remained admitted in hospital for close to one month on account of fractures sustained on different parts of his body. The Tribunal ought to have awarded some amount on account of loss of income for one month. I am of the view that a sum of ₹10,000/- would be just and proper compensation on account of loss of income. Likewise some money was required to be paid on account of transportation charges. A sum of ₹5,000/- is deemed to be just and proper on said account. ₹5,000/- awarded on account of special diet is on the lower side. The same is enhanced to ₹10,000/-. Likewise, the sum of ₹20,000/- awarded on account of pain and suffering is enhanced to ₹25,000/-. Accordingly, as against the compensation of ₹1,12,900/-, the appellant would be entitled to ₹1,37,900/- along with interest @ 7.5 % per annum with the effect from the date of claim petition till date of payment less amount, if any, already paid.

6. Accordingly, appeal is allowed. Award dated 8.7.2014 passed by the learned MACT, Karnal is modified to the extent as noted above.

November 15, 2018
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No