

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

FAO-3004-2013

Date of Decision:07.03.2018

Minor Rahul through his father

.....Appellant

Versus

Rashid Ahmed and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. D.D. Gupta, Advocate,
for the appellant.

None for respondent Nos.1 and 2.

Ms. Shamsheer Kaur, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

Appellant has filed the present appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Sonapat (for short "the Tribunal") vide award dated 07.05.2012.

Briefly stated on 14.12.2010, appellant-injured along with one Tarun Kumar was going towards Sikandarpur from Jhinhana town on a Hero Honda Splendor motorcycle bearing registration No.UP-12R-7426 being driven by Tarun Kumar. When they reached near Banwanti Degree College, Sikandarpur, UP, the offending bus bearing registration No.UP-12D-9522 came from Uun side being driven by its driver in a rash and negligent manner without obeying the traffic rules. The bus hit the motorcycle from front side. As a result thereof, the occupants of the motorcycle fell on the road. In the said accident, appellant-claimant suffered grievous injuries on his person whereas the other co-passenger

Tarun Kumar died at the spot. The appellant was brought to Primary Health Centre, Uun (Muzaffarnagar) from where he was referred to CHC Uun. As the injuries were serious in nature, the injured was admitted in Bohra Specialty Hospital, Budhana Road, Shamli for further better treatment. The appellant remained admitted in the hospital upto 16.12.2010 and thereafter, he was got admitted in Panipat. In any case, he remained admitted in the hospital from 14.12.2010 to 25.12.2010.

In a claim-petition filed under Section 166 of the Motor Vehicles Act, 1988, the Tribunal awarded a total compensation of ₹1,50,000/- on account of injuries suffered by the present appellant. This compensation includes ₹1,20,000/- + ₹30,000/- on account of pain and sufferings, loss of studies, loss for future income, on account of permanent disability and compensation on account of loss of future amenities and opportunities on account of permanent disability.

Learned counsel for the appellant has argued that the claimant suffered multiple fractures i.e., fracture neck femur, compound fracture right tibia, fracture of lateral malleolus and fracture talus right. The appellant was operated for fracture neck of femur righty with DHS on 17.12.2010 and accordingly discharged from the hospital on 25.12.2010. The doctor examined him and on the basis of medical record, it was established that the claimant had suffered multiple fractures for which surgery was conducted. He has further argued that the appellant had spent an amount of ₹1,16,564/- between 14.12.2010 to 28.12.2010 which speaks about the nature of injuries and the follow-up treatment. Once it is established that the expenses of medicines/medical surgery comes to ₹1,16,564/-, seriousness of the nature of injuries can well be assessed. On account of injuries, the

claimant who was a student at that time could not pursue his studies. He remained bed-ridden for about eight months and suffered permanent disablement on account of injuries which have adversely affected the future prospects of the appellant being a student. Therefore, the awarded compensation needs enhancement as the compensation awarded by the Tribunal is on the lower side.

On the other hand, learned counsel for respondent No.3-Insurance Company has argued that the Tribunal has already awarded adequate compensation viz-a-viz the injuries suffered by the appellant and there is no scope of any further enhancement. The claimant has failed to establish that he remained bed-ridden for eight months or suffered any permanent disability. The appellant has failed to adduce any evidence that on account of injuries, he could not pursue his studies regularly.

I have heard the learned counsel for the parties.

The accident and the injuries are not in dispute. PW2-Dr. Ritesh Singh who is an Ortho Surgeon, while appearing as a witness has stated that the claimant-injured was treated by him for multiple fractures i.e., fracture neck femur, compound fracture right tibia, fracture of lateral malleolus and fracture talus right. The injured was operated for fracture neck of femur righty with DHS, on 17.12.2010 and discharged from the hospital on 25.12.2010. Prescription and follow-up slips have been proved on record. The treatment record Ex.P2 to Exs.P17, medicine bills Ex.P-18 to Exs.P-118 and prescription slips Exs.P-119 to Exs.P-174 are sufficient enough to establish the fact that the injured remained under treatment for a considerable period. Even for the treatment, he had spent an amount of ₹1,16,564/- on account of medicines and surgical operations. He remained

under treatment from 14.12.2010 to 25.12.2010. This Court cannot ignore the fact that the nature of injuries were such which must have required regular follow-up. The treatment had continued for more than one year. Therefore, he must have spent a considerable amount on transportation so as to get the medical treatment. The claimant was a student at the time of accident and therefore, this Court is of the view that the appellant could not have pursued his studies because of the accident. The injuries are multiple fractures which carry pain for a considerable period. He was operated for fracture neck of femur righty with DHS on 17.12.2010 and must have remained on rest. For such multiple fractures, a high protein diet and services of an attendant are necessary to rehabilitate a patient towards normalcy. Therefore, this Court finds that considering the nature of injuries so suffered and the loss of studies for the academic year, the claimant deserves to be awarded ₹1 lac for loss of studies and loss of income. As a boy of 16 years, he is expected to perform some duty or the other in a family of labourer. Further, for having regular follow-up treatment for more than one year, this Court cannot ignore the fact that he must have hired transportation services from time to time, therefore, another amount of ₹20,000/- is awarded towards transportation.

The claimant shall be held entitled to interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

With this addition of ₹1,20,000/- over and above the amount awarded by the Tribunal, the present appeal stands disposed of.

March 07, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No