

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CM-9642-CII-2015 in/and
FAO-3224-2015 (O&M)
Date of Decision : 01.11.2018

Deepak

..... Appellant

Versus

Rajnesh and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Jai Singh Yadav, Advocate
for the appellant.

None for respondent No.1.

Ms. Deepa Thurkyaan, Advocate
for Mr. S.S. Swaich, Advocate
for respondent No.2.

Brig. B.S. Taunque, Advocate
for the respondent No.3-insurance company.

AJAY TEWARI, J. (ORAL)

CM-9642-CII-2015

This is an application for condoning the delay of 168 days in filing the appeal. In my opinion, it would be in the interest of justice if this application is allowed subject to the condition that the appellant shall not be entitled to the interest for the period during which the appeal was delayed in case the compensation is enhanced.

Ordered accordingly. Delay condoned.

FAO-610-2014

This is an appeal for enhancement of compensation where liability of the insurance company is not disputed.

Admitted.

To be listed before the Permanent Lok Adalat.

FAO-3224-2015 (O&M)

This appeal has been filed for enhancement of compensation and for modifying the award dated 31.05.2014 awarding compensation of Rs.2,10,000/- alongwith interest @ 6% p.a. on account of injuries suffered by the appellant in a motor accident which took place on 27.05.2010.

Counsel for the claimant-appellant has argued that nothing has been awarded on account of loss of earning. Counsel for the insurance company points out that there is no evidence of income. Counsel for the claimant-appellant has countered this argument by stating that even if the appellant is treated as an unskilled labourer, as per the Minimum Wages Act, the income should be taken as Rs.4500/- p.m. at the relevant time. I find weight in the argument of counsel for the claimant-appellant. Consequently, I hold that the income should be taken as Rs.4500/- p.m. Since the claimant-appellant was 22 years old, 40% future prospects has to be awarded on that income in view of the judgment of the Supreme Court passed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009.*** Further as per the age of the injured, the multiplier of 18 has to be applied. Ordered accordingly. Since the right hand of the claimant-appellant has been amputated, I take his disability at 90%.

of pain and suffering, special diet, attendant, transportation and medical expenses only an amount of Rs.50,000/- has been awarded. He has further argued that though no medical bills have been placed on record yet it is clear that the appellant was hospitalized for about two weeks and consequently must have incurred some expenses. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, on account of special diet, attendant, transportation and medical expenses, I award a sum of Rs.50,000/-. For pain and suffering and loss of marriage prospectus, I award a sum of Rs.2 lakhs. The amount of Rs.50,000/- which was awarded under the head of pain and suffering, special diet, attendant, transportation, loss of income etc. shall be set off.

I further find that the interest of 6% p.a. which has been awarded by the Tribunal is very low. Consequently, I hold that the entire compensation amount be given alongwith interest @ 12% p.a. from the date of filing of the claim petition till the date of payment in view of the judgment of the Supreme Court in the matter of *Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018.*

Appeal stands allowed in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

November 01, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No