

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

FAO-6014-2013 (O&M)

Date of Decision:25.01.2018

Subhash Chander

.....Appellant

Versus

Dinesh Kumar Godara and others

.....Respondents

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

Present: Mr. Jainainder Saini, Advocate,
for the appellant.

Mr. R.N. Singal, Advocate,
for respondent No.3.

HARI PAL VERMA, J.(Oral)

CM-24760-CII-2013

Prayer in this application under Section 5 of the Limitation Act is for condonation of 580 days' delay in filing the appeal.

Learned counsel for the appellant states that though the award was passed on 29.11.2011 but it was only on 02.05.2012, when the appellant had gone to the District Court, Hisar to meet his counsel, he was advised that he can prefer an appeal against the award and was given the documents of the case. Accordingly, in this process, he applied for the disability certificate and considerable time was spent in obtaining the certificate. In these circumstances, the delay has occurred and the appeal could not be preferred by him within limitation.

Reply to the application has been filed and while denying the

contents of the application, it has been argued by learned counsel for respondent No.3-insurance company that the story projected by the appellant is a concocted one and therefore, delay of 580 days' cannot be condoned.

I have heard the learned counsel for the parties.

No doubt, the delay is inordinate. But considering the fact that the appellant was trying to collect certain documents which included disability certificate, this Court finds that the reasons shown by the appellant are sufficient so as to condone the delay.

Accordingly, the present application is allowed and the delay of 580 days' in filing the appeal is condoned.

C.M. stands disposed of accordingly.

FAO-6014-2013 (O&M)

Appellant-claimant has filed the appeal seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Hisar (for short "the MACT") vide award dated 29.11.2011.

The claimant took a lift in a Jeep bearing registration No.HR-62-3477. The vehicle was being driven by driver Dinesh Kumar Godara in a rash and negligent manner. The claimant was coming from Siwani to Hisar and there was heavy fog on that day. When the Jeep reached at the bus stand of Bharia, the driver of the offending vehicle overtook one truck and struck into the front side of a trolly coming from Hisar side. The claimant received multiple injuries in the accident in question. He remained admitted in the hospital from 10.01.2011 to 15.01.2011 and was operated for close reduction of right hip and open reduction internal fixation of right acetabulum. Medical bills for an amount of ₹72,000/- were submitted and

taking into consideration his admission in the hospital for six days, the learned MACT has awarded total compensation of ₹82,000/- (i.e. ₹72,000/- on account of medical bills and ₹10,000/-on account of pain and sufferings).

Dissatisfied with the aforesaid award, the appellant has filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellant has argued that the claimant is a practicing Lawyer and on account of injuries suffered by him in the accident, he was operated for close reduction of right hip and open reduction internal fixation of right acetabulum due to which, he could not attend Court for a sufficient period. Further, no amount of compensation towards attendant charges, diet and transportation has been given to him, despite such injuries.

On the other hand, learned counsel for respondent No.3- Insurance Company has not disputed the accident. However, he states that the claimant has failed to prove that he was a practicing Lawyer as no evidence has been brought on record by him. The only averment made in the claim-petition is that the claimant was going to meet his Advocate from Siwani to Hisar. Therefore, there is no loss of income to the claimant. Taking into consideration the nature of injuries, so suffered, by the claimant in the accident, the learned MACT has already awarded adequate compensation and there is no scope of any enhancement.

I have heard learned counsel for the parties.

The accident and the injuries are not disputed. Admittedly, an amount of ₹72,000/- has been awarded to the claimant on account of medical bills and hospital treatment as the claimant remained admitted in the Life Line Hospital, Hisar from 10.01.2011 to 15.01.2011. This Court

finds that the learned MACT has not awarded any compensation under the heads of attendant charges and diet, as considering the nature of injuries, the claimant must have been attended by somebody and must have been advised high protein diet. The appellant must have remained on rest for some time and therefore, his recurring income must have been affected adversely. Therefore, considering the nature of injuries, an amount of ₹10,000/- is granted towards the loss of income, ₹5,000/- towards attendant charges and another amount of ₹10,000/- towards diet and transportation etc.

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

With the aforesaid modification in the award whereby additional amount of ₹25,000/- is awarded, the present appeal stands disposed of.

Since main appeal has been disposed of, pending miscellaneous application, if any, shall also stand disposed of accordingly.

January 25, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No