IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2342 of 2001
Date of decision:11.01.2019

Harwinder Singh **…..Appellant**

Versus

Jaswant Singh & ors. **……Respondents**

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

Present: Mr. Naresh Kaushal, Advocate for the appellant.

Mr. Mohit Garg, Advocate for respondent Nos.1 and 2.

Mr. V.K. Garg, Advocate for respondent No.3-Insurance Company.

B.S. WALIA, J. (ORAL)

1. Appeal has been filed seeking enhancement of compensation of ₹75,000/- awarded to the appellant on account of injuries sustained in a motor vehicular accident on 29.6.1996.

2. A perusal of paragraph No.15 of the award dated 24.4.2000 reveals that the appellant received injuries on his left forearm and lower back portion, his right leg had lost sensitivity due to the accident and further that he remained admitted in the PGI for one year. It has further come in the evidence of the appellant-claimant that he became unconscious after the accident and regained consciousness after two days. Disability certificate has been produced on record as Ex.P1 which shows that the appellant suffered permanent disability of 20%.

3. Likewise PW1-Surinder Kaur, mother of the appellant, in examination-in-chief stated that initially the appellant had been taken to the Civil Hospital, Kharar from where he was referred to the PGI, Chandigarh where he remained admitted for one year. In examination-in-chief she stated that she

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had not brought the bills relating to the treatment of the appellant in the Court but it was wrong that she was deposing falsely.

4. In the light of the aforementioned position, the learned Motor Accidents Claims Tribunal, Rupnagar awarded lump sum compensation of ₹75,000/- by observing that although the appellant-claimant had not led any evidence regarding the medical expenses incurred by him yet he suffered physical pain and mental agony on account of the injuries suffered by him.

5, Learned counsel for the appellant contended that admittedly, as per evidence of PW-1, the appellant had remained admitted in the PGI for close to one year and the said evidence of PW-1 had not been controverted by the respondents. Moreover, the appellant had sustained injuries on his left forearm and lower back portion besides his right leg had lost sensitivity and being a minor at the time of accident, he was entitled to award of compensation on a higher scale. Learned counsel contends that the appellant sustained 20% permanent disability for which he was entitled to award of ₹40,000/-. Besides, in view of his having remained admitted in the PGI for close to one year and having sustained injuries in his lower back portion as also having lost sensitivity in the right leg, the appellant was entitled to attendant charges @ Rs.1000/- per month.

6. Learned counsel for the respondent, on the other hand, states that no doubt the appellant would be entitled to award of attendant charges but the amount claimed is on the higher side in view of the accident having taken place in the year 1996.

7. In the circumstances, I am of the view that ₹40,000/- on account of permanent disability and ₹750/- per month for a period of twelve months would be just and adequate compensation on account of attendant charges.

8. Learned counsel for the appellant further contends that since the appellant sustained injuries of his left forearm and lower back portion besides his right leg lost sensitivity due to the accident and the appellant remained admitted in PGI close to one year therefore, he is entitled to ₹1,00,000/- on account of pain and suffering.

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9. Per contra, learned counsel for the respondents states that amount claimed is highly exorbitant and the appellant at best can be awarded ₹50,000/-.

10. I find merit in the submission of learned counsel for the respondents. Accordingly, the appellant is awarded a sum of ₹50,000/- on account of pain and suffering.

11. Learned counsel for the appellant further contends that being a minor and having remained admitted in the PGI for a period of close to one year, the appellant was entitled to award of compensation on account of special diet. Accordingly, a sum of ₹2,000/- per month ought to have been awarded on account of special diet.

12. Per contra, learned counsel for the respondents contend that no doubt the appellant is entitled to award of compensation for special diet but the amount claimed is exorbitant and at best the appellant can be held entitled to award of ₹1,000/- per month towards special diet for the period he remained admitted in the PGI, I find merit in the submission of learned counsel for the respondents.

Accordingly, a sum of ₹1,000/- per month is awarded on account of special diet to the appellant for period of one year.

13. Learned counsel for the appellant further states that no amount has been awarded on account of transportation charges, although the appellant was first shifted from the site of the accident to the Civil Hospital, Kharar from where he was referred to the PGI and that having remained admitted in the PGI for a period close to one year, his family had to commute to and fro from the residence to the PGI in order to look after the appellant and therefore, a sum of ₹2,000/- per month should be awarded for a period of one year on account of transportation charges.

14. Taking into account the fact that accident occurred in the year 1996, I am of the view that a sum of ₹1,000/- per month for a period of one year would suffice on account of award of compensation towards transportation charges.

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15. Learned counsel for the appellant further contends that the appellant is also entitled to award of compensation on account of loss of marriage prospects as permanent disability of 20% would impact marriage prospects also.

14. Per contra, learned counsel for the respondent contended that the appellant was a minor at the time of accident, therefore, no amount is payable on account of loss of marriage prospects.

15. I am unable to agree with this contention. Although the appellant was 16 years of age yet he had sustained 20% permanent disability on account of injuries to the left forearm and lower back portion besides his right leg had lost sensitivity which would impact on his future marriage prospects. Accordingly, I am of the view that a sum of ₹20,000/- in lumpsum would suffice on account of loss of future marriage prospects.

15. In the light of the position as noted above, as against the compensation of ₹75,000/- awarded to the appellant, the appellant is held entitled to ₹1,43,000 alongwith interest @ 7.5.% per month on the enhanced amount with effect from the date of claim petition till date of payment.

16. Accordingly, appeal is allowed. Award dated 24.4.2000 passed by the MACT, Rupnagar, is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

January 11, 2019
ps

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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