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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2019.05.09 14:39
I attest to the accuracy and
authenticity of this document

FAO-2746-2001

Date of decision : 2.5.2019

Rohitash Kumar Chauhan

..... Appellant

Versus

Dilbagh Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sanjay Jain, Advocate,
for appellant.

Mr. Ravinder Arora, Advocate,
for respondent No. 2.

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KULDIP SINGH J. (ORAL)

This is claimant's appeal for enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala. Suffice to say that claimant, while going on scooter on 15.7.1999, at 7.40 AM, was hit by offending truck, bearing registration No. HR-07-1855, being driven by respondent No. 1. As a result of accident, claimants received multiple fractures on his right leg and left wrist and he was referred to PGI, Chandigarh. According to claimant, he was working as physiotherapist and doing private practice. He was getting Rs. 1,200/- per month from S.D. Physiotherapy Institute and was earning Rs. 4,000/- per month from private practice. Claimant was 35 years of age. The Tribunal awarded compensation to the tune of Rs. 2,09,366/-. Claimant is not satisfied with said quantum. He seeks enhancement.

I have heard learned counsel for parties and have also carefully gone through file.

Perusal of award of Tribunal shows that Tribunal awarded compensation under following heads :-

1. Medical bills Rs. 71,126/-
2. Loss of income to be 60% from Rs. 1,200/- per month salary i.e. Rs. 720 x 12 and applied multiplier of 16, total amount of compensation comes to Rs. 1,38,240/- (Rs. 720 x 12 x 16).

I have gone through evidence of doctor. As per statement of Dr. Sanjeev Sharma (PW2), claimant had suffered four fractures, three on leg and one on left wrist. He was admitted on 15.7.1999, operated upon 21.7.1999 and discharged on 30.7.1999. He was readmitted on 8.8.1999 for infection in implants and again he was operated on 12.8.1999, but date of discharge is not given. Patient was again re-operated on 11.9.1999 for removal of implant and was discharged on 23.9.1999.

Assuming that in the month of August, claimant after operation, might have remained in PGI for 35 days, total compensation for pain and suffering, attendant etc. at the rate of Rs. 500/- per day comes to Rs. 17,500/-. As per statement of doctor, there is shortening of leg of about 4 cm on right lower limb. As per disability certificate, claimant has 60% disability qua right leg.

In order to examine whether adequate compensation was awarded or not, this Court will split compensation in different heads as it is claimed that compensation not granted under certain heads i.e. Rs. 4,000/- as private practice, for which there was loss of earning from private practice for 8 months. The loss of salary for 6 months was also not awarded. Nothing was awarded for pain and suffering, special diet and

transportation.

For loss of income from private practice at the rate of Rs. 4,000/- per month for 8 months, Rs. 32,000/- i.e. Rs. 4,000/- x 8 months are allowed. For loss of income from salary at the rate of Rs. 1,200/- per month for 6 months, Rs. 7,200/- i.e. Rs. 1,200/- x 6 months are allowed. Rs. 17,500/- for admission in PGI for 35 days at the rate of Rs. 500/- per month including attendant expenses are allowed. Considering that accident is of year 1999, Rs. 10,000/- for pain and suffering and transportation, Rs. 10,000/- for special diet, Rs. 20,000/- for shortening of right leg and Rs. 30,000/- for permanent disability are allowed. In this way, total compensation of Rs. 1,97,826/- is allowed.

I am of the view that since claimant was physiotherapist and there is nothing on file to show that he suffered loss of income, therefore, multiplier method not to be applied. The disability certificate on file shows that it was valid for 3 years, meaning thereby that disability was to be reassessed after 3 years. The doctor has stated that leg could not be bend beyond 50 degree. However, with physiotherapy and exercise, it is likely to improve. Since most of physiotherapy is done with the help of hand and there is no loss of income, therefore, multiplier method can not be applied to grant compensation. As such, if compensation on the abovenoted heads is calculated, it comes to Rs. 1,97,826/- which is less than compensation awarded by Tribunal. Since there is no cross appeal, compensation cannot be reduced.

In view of foregoing discussion, I am of the view that though this Court, for the different reasons, has calculated compensation. Already more than compensation calculated by this Court, has been awarded.

There is no ground to interfere in impugned award. Therefore, appeal is dismissed.

(KULDIP SINGH)
JUDGE

2.5.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No