

[487]

FAO No.2538 of 2004

Date of decision:26.02.2019

Ruli Ram.

..... Appellant

Versus

Jitender and others.

..... Respondents

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

Present: Mr. Bhupinder Singh Walia, Advocate for the appellant.

Mr. R.N. Singhal, Advocate for respondent No.3/Insurance Company.

B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the appellant/claimant seeking enhancement of compensation awarded on account of injuries sustained in a motor vehicular accident on 28.09.2001. Learned counsel contended that the appeal was liable to be allowed, award modified and compensation payable enhanced by awarding appropriate compensation on account of pain and suffering and special diet besides by award of compensation for attendant and transportation charges for the duration the appellant remained bed-ridden.

[2] Learned counsel for the appellant contended that the appellant was awarded compensation of ₹ 5000/- only on account of pain and suffering whereas taking into account the injuries sustained as also the period for which he remained bed-ridden, the appellant was entitled to a minimum of ₹ 20,000/- on account of pain and suffering.

[3] Learned counsel further contended that only ₹ 5000/- was awarded on account of special diet whereas the appellant ought to have been awarded minimum of ₹ 10,000/-.

[4] Learned counsel further contended that no amount was awarded on account of attendant or transportation charges whereas the appellant ought to have been awarded a minimum of ₹ 10,000/- towards attendant charges and ₹ 5000/- on account of transportation charges.

[5] Per contra, learned counsel for respondent No.3/Insurance Company vehemently disputed the enhancement prayed for and contended that at best the appellant was entitled to award of some compensation on account of attendant & transportation charges, besides, nominal increase in compensation on account of pain and suffering.

[6] I have considered the submissions of learned counsel for the parties.

[7] Admittedly, the appellant sustained fracture of left femur, fracture left patella, 25 % permanent disability and 15% temporary disability and remained bed-ridden for a period of four months. The learned Tribunal awarded a sum of ₹ 10,000/- on account of treatment charges, ₹ 5,000/- on account of special diet, ₹ 5000/- on account of pain and suffering, ₹ 50,000/- for 25% permanent disability and ₹ 15,000/- for 15% temporary disability, total ₹ 85,000/-.

[8] Keeping in view the injuries sustained as also the fact that the appellant remained bed-ridden for a period of four months, I am of the considered view that the compensation of ₹ 5000/- awarded on account of pain and suffering was on the lower side. Accordingly, the amount on account of pain and suffering is enhanced to ₹ 10,000/-. Apart from stating

that the compensation awarded i.e. ₹ 5000/- on account of special diet is

less, no basis for enhancement has been advanced. Accordingly, taking into account the injuries sustained and the duration the appellant remained bed ridden, I am of the considered view that compensation awarded on said head does not warrant interference. However, no amount was awarded on account of attendant or transportation charges. Accordingly, taking into account that the appellant remained bed-ridden for four months, I am of the considered view that he would have required the care of an attendant. Accordingly, the appellant is held entitled to award of ₹ 1500/- per month for a period of four months (i.e. ₹ 6000/-) towards attendant charges. Likewise taking into account the fact, that the appellant must have occasionally visited the doctor for treatment a sum of Rs. 1000/- is awarded in lump sum as transportation charges.

[9] In the light of the position as noted above, as against compensation of ₹ 85,000/- awarded by the learned Tribunal, the appellant is held entitled to award of ₹ 97,000/- along with interest @ 9% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[10] Accordingly, appeal is allowed by modifying Award dated 25.02.2004 passed by the learned Tribunal to the extent as noted above.

(B.S. WALIA)
JUDGE

26.02.2019
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| 1. Whether speaking/reasoned | : | Yes/No. |
| 2. Whether reportable | : | Yes/No. |