

**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

FAO No.3207 of 2005
Date of Decision: 14.01.2019

Gulab Singh

...Appellant

versus

Shamsher Singh and others

...Respondents

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

Present :- None for the appellant.

Mr. M.K. Bhatnagar, Advocate for respondent No.1.

None for respondent No.2.

Mr. Aseem Aggarwal, Advocate for respondent No.3.

...

B.S. Walia, J (Oral)

1. Despite the case having been called out twice, none has put in appearance on behalf of the appellant or for that matter on behalf of respondent No.2. Since, the appeal is of the year 2005, therefore, I am not inclined to adjourn the matter. Accordingly, with the assistance of learned counsel for respondent Nos.1 and 3, I have gone over the record.

2. Appellant, who sustained injuries in a motor vehicular accident on 01.09.2003 was awarded compensation of ₹49,800/- as per details given as under:-

Treatment	: 35000-00
Loss of income (2400x2 months)	: 4800-00
Pain and sufferings	: 5000-00

Special Diet, transportation, : 5000-00

Attendant charges etc.

Total : 49800-00

3. Appellant has claimed enhancement in the compensation awarded on the ground that income assessed was on the lower side since he was earning ₹5,000/- per month from his job, accordingly, loss of future income was not correctly awarded besides compensation awarded on account of pain and suffering, special diet, transportation and attendant charges was also on the lower side.

4. Learned counsel for the respondents contended that perusal of paragraph No.17 of the award reveals that although the appellant had claimed that he had spent ₹70,000/- on his treatment but Dr. Sunil Midha had clearly stated that he had charged ₹25,000/- and proved bill as Ex.P23 on the record. Further although the appellant has placed on file bills Ex.P-5 to Ex.P-22, the learned Tribunal on perusal of the same had held that none of the bills co-relate with the OPD prescriptions, therefore the same appeared to have been procured with a view to get higher compensation. The Tribunal further by observing that the appellant had not placed any receipt on file for payment to the doctor besides Dr. Sunil Midha admitted in his cross-examination that he had not brought the record relating to payment and had only stated the same from some rough calculations from the aforesaid document, yet considering that the appellant had undergone surgery, quantified the medical expenses at ₹35,000/-.

5. I have considered the claim for enhancement as well as submissions of learned counsel for respondent Nos.1 and 3.

6. Although the appellant claimed that he was working as carpenter and was earning ₹5,000/- per month but he did not lead any evidence of working with M/s Gaurav Furniture as claimed by him or for that matter getting salary of ₹5,000/- per month. In the circumstances, the learned Tribunal took the income of the appellant as ₹2400/- per month.

7. However, the minimum wages payable to a skilled worker during the relevant period in the State of Haryana were ₹2457/- per month. Copy of the notification issued by the Government of Haryana is taken on record as Mark-A. Accordingly, as against income of ₹2400/- taken into account for loss of income, income of ₹2457/- per month is taken into account leading to marginal increase from ₹4800/- to ₹4914/-.

8. ₹5,000/- was awarded on account of pain and suffering. However, it has come on record that the appellant sustained head injury on 01.09.2003 for which he was operated on 02.09.2003 for depressed fracture right parietal bone with underlying hematoma and contusion and right parietal craniotomy and that he was discharged on 10.09.2003. Besides he was also treated by Dr. Sameer Aggarwal, Neuro Surgeon, Karnal in Karan Hospital. To my mind, in the circumstances, sum of ₹5,000/- awarded on account of pain and suffering is on the lower side. Accordingly, sum of ₹15,000/- is deemed to be just and appropriate compensation on account of pain and suffering.

9. Rs.5,000/- was awarded on account of special diet, transportation and attendant charges. Since the appellant would not have been able to do any work for a period of close to two months, therefore,

separate amount of compensation had to be awarded on account of special diet, transportation, attendant charges etc. In the circumstances, I am of the view that a sum of ₹3,000/- per month for a period of two months would be appropriate compensation on account of special diet, ₹2000/- per month for a period of two months would be appropriate compensation on account of transportation charges and ₹2500/- per month for a period of two months would be appropriate compensation on account of attendant charges.

10. As regards enhancement of medical expenses, the same does not warrant any interference in view of the finding returned by the learned Tribunal as also medical evidence on record.

11. Accordingly, as against the compensation of ₹49,800/- awarded by the Tribunal, the appellant is held entitled to award of Rs.69,914/- along with interest @ 6% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

12. Accordingly, appeal is allowed and award dated 19.04.2005, passed by the learned Tribunal is modified to the extent as noted above.

January 14, 2019
rajesh.k.khurana

(B.S.Walia)
Judge

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