

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 312

FAO No.168 of 2011
Decided on: *December 18, 2019*

Charan Singh

....Appellant

Versus

Mahinder Singh & others

.....Respondents

CORAM: **HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. B.S. Tewatia, Advocate, for the appellant.

None for respondent Nos.1 and 2.

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

Sant Parkash, J

The present appeal is directed against Award dated 21.04.2010 passed by the Motor Accident Claims Tribunal, Palwal (for short, 'Tribunal').

Brief facts of the case are that on 21.05.2007, when the appellant - claimant was coming from Hodal to his village Alahapur, near Palwal, on his motorcycle bearing No.HR-30C-2633, the offending vehicle, Tata-608 bearing registration No.HR-67-0255 being driven by respondent No.1, Mahinder Singh, in a rash and negligent manner, hit his motorcycle, as a result of which, the appellant - claimant sustained injuries. He was taken to the Civil Hospital, Hodal, by one Anish, and FIR No.118 dated 21.05.2007 under Sections 279, 337, 427 IPC, Police Station, Hodal, was also got registered in respect of the alleged accident.

The petitioner preferred a claim petition before the learned Tribunal, claiming compensation on account of the injuries sustained in the said accident, which was contested by the respondents, by filing separate

written statements. From the pleadings of the parties, issues were framed by the learned Tribunal.

The learned Tribunal, after appreciating the evidence of both the parties and going into the material placed before it, vide impugned award dated 21.04.2010, awarded a sum of ₹ 60,316/-, to be paid jointly and severally by all the respondents.

Assailing the impugned award, learned counsel for the appellant has vehemently argued that the learned Tribunal did not consider the material placed before it in the right perspective and passed the impugned award on conjectures and surmises. The learned Tribunal erroneously ignored the disability certificate Ex.P-12 depicting the functional disability of the appellant on account of injuries suffered in the said accident. He further assailed the impugned award urging that the learned Tribunal did not take into consideration the fact that the appellant - claimant remained admitted in the hospital from 21.05.2007 to 05.07.2007 and had suffered fracture shaft femur right side, fracture both bones right leg and fracture proximal humerus right side. The learned Tribunal did not award even a single penny on account of disability and therefore, awarding of the meager amount on account of major accident has resulted into miscarriage of justice.

Opposing the aforesaid contentions, learned counsel for respondent No.3 - Insurance Company, hailed the impugned award and sought the dismissal of the appeal contending that a fair and reasonable compensation has been awarded. Since the appellant himself could not prove the disability, there was no occasion for the learned Tribunal to rely upon the disability certificate Ex.P-12 in the absence of examination of the medical

Heard.

As far as the factum of accident is concerned, the same is not disputed. Concededly, the appellant had sustained injuries in the accident and the learned Tribunal awarded a sum of ₹ 60,316/- on account of the bills and medicine; loss of income; and admission in the hospital etc. The learned Tribunal also out-rightly ignored the material document Ex.P-12 i.e. disability certificate, by observing that since the author of that document was not examined, it was not admissible in evidence. In the considered view of this Court, learned Tribunal should have taken other attending circumstances into consideration that the appellant remained admitted in the hospital from 21.05.2007 to 05.07.2007, as also, had sustained fracture shaft femur right side, fracture both bones right leg and fracture proximal humerus right side. Admittedly, the concerned medical officer was not examined but that fact alone cannot be said to be a ground to deny the compensation, on account of the injuries sustained in the accident.

Taking into consideration the totality of the circumstances, this Court is of the view that ends of justice will be fully met if the awarded amount of ₹ 60,316/- is enhanced to ₹ 1,00,000/- on all counts. It is further made clear that the amount of compensation enhanced by this Court would entail interest @ 9% per annum if the payment is not made within two months from the date of receipt of a certified copy of this judgment.

Disposed of with the aforesaid modification.

December 18, 2019

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**(Sant Parkash)
Judge**

Whether Speaking : Yes/No
To be reported or not : Yes/No