

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4923 of 2010(O&M)
Date of Decision: 27.2.2019

Ashok Kumar

---Appellant

versus

Ramjuari and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. S.K.Yadav, Advocate
for the appellant**

**Mrs. Madhu Sharma, Advocate,
for Mr. Rajesh K.Sharma, Advocate
for the insurance company**

Rekha Mittal, J.

CM No. 21236-CII of 2010

Prayer in this application is for condoning delay of 142 days
in filing the appeal.

In view of averments made in the application supported by
affidavit of Ashok Kumar applicant-appellant coupled with that provisions
of the Motor Vehicles Act for grant of compensation are benevolent social
legislation to save the victim family from financial loss caused due to
accident, the application is allowed, delay of 142 days in filing the appeal
stands condoned subject, however, to the condition that in case the
compensation is enhanced, the applicant-appellant shall not be entitle to
interest for the period of delay.

FAO- 4923 of 2019

The claimants are in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 24.6.2007.

The Motor Accidents Claims Tribunal, Narnaul (in short “the Tribunal”) has awarded Rs. 50,000/-.

Counsel for the appellant would argue that the injured suffered injury on his spine and MRI of Cervical Spine conducted in hospital at Jaipur (Ex. P22) reveals Grade I anterior dislocation of C5 over C6 vertebra subtle marrow edema is seen in C5, C6 bodies, posterocentral extrusion of disc mildly compressing thecal sac. It is further argued that the appellant remained hospitalized in PGIMS, Rohtak for a period of 12 days and thereafter he got treatment from SMS Hospital, Jaipur in the month of December 2007. It is further argued that claimant produced on record medical bills of Rs. 34,072/- and is entitle to reimbursement thereof.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal with the submission that the appellant sustained only one injury and his period of hospitalization was barely 15 days. He did not suffer any disability on account of receipt of injury in the occurrence, thus, there is no justification for allowing compensation more than Rs. 50,000/- assessed by the Tribunal.

Indisputably, the appellant sustained one injury as per medico legal report Ex. P6 and MRI cervical spine Ex. P22. The claimant did not examine a doctor to have medical opinion as to what was the impact of injury on his day to day routine or performing his duty which he was doing prior to the occurrence until he was fully recovered after discharge from

the hospital. In the given circumstances, there is no clear evidence on record for assessing compensation with regard to pain and suffering, loss of earning, services of an attendant, special diet etc. However, Hon'ble the Supreme Court in **R.D.Hattangadi vs. M/s Pest Control (India) Private Limited AIR 1995 (SC) 755** has held that in injury cases, some hypothesis and guess work is to be applied for the purpose of determination of just compensation. In view of the above, appellant is held entitle to a sum of **Rs. 20,000/-** for pain and suffering, loss of earning, special diet etc.

Claimant is allowed reimbursement of medical expenses based upon bills to the tune of Rs. **34,072/-**. He is awarded **Rs. 9400/-** for transportation expenses based on receipts.

Total compensation is Rs. 63,472/- [20000 + 34072 +9400] and the additional amount is Rs. 13,472/-(63,472-50,000), payable with interest @ 7.5% from the date of petition till realization except for a period of delay of 142 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

27.2.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No