

CM-27481-CII-2011 in/and
FAO No.6744 of 2011
Date of Decision: 11.9.2019

Surender and others

.....Appellants

Versus

Jai Mal Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Fateh Saini, Advocate, for the appellants.

Ms. Anamika Mehra, Advocate,
for respondent No.3-Insurance Company.

NIRMALJIT KAUR, J. (ORAL)

CM-27481-CII-2011

For the reasons mentioned in the application, the delay of 4 days in filing of the appeal is condoned.

CM stands disposed of.

Main appeal

The present appeal is filed for enhancement of the amount granted by the Motor Accident Claims Tribunal, Kaithal vide its award dated 1.6.2011 towards the damaged tractor.

While praying for enhancement, learned counsel for the appellants submitted that he had presented the bills for the expenses incurred on the repair of the tractor but the Court awarded only ₹ 36,440/- on the ground that the appellant has not been able to prove the bills so presented and that the tractor was old.

Learned counsel for the Insurance Company, however, while disputing the claim of the appellant submitted that the appellant was not able to prove any of the bills. He did not produce author of the bills or any

one from the company to show that repair parts were purchased from them or that they were ever purchased, therefore, the amount cannot be enhanced.

A perusal of award shows that the Tribunal accepted the amount reflected in the Ex.P-5, P-7 to P-10 but granted only 50% of the said amount. Once, those bills were accepted for grant of 50%, it is not understood, as to how the remaining 50% of the said bills was not paid. No cross appeal has been filed challenging the said award to the extent of the 50%. Hence, there is no scope for ignoring the Ex.P-5, P-7 to P-10 while granting the total amount of bills as reflected in Ex.P-5, P-7 to P-10. However, Ex.P-6 and P-11, which are the bills issued by the M/s Garg Trading Company have not been taken into consideration by the Tribunal on the ground that no one appeared from the said company to prove the said bills.

Admittedly, the amount as reflected in Ex.P-5, Ex.P-7 to P-10 comes to ₹ 72,876/-. An amount of ₹ 36,440/- already stands paid. The balance amount ₹ 36,436/- be paid to the appellant within a period of two months alongwith 6% interest per annum from the date of filing of claim petition. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

11.9.2019
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No