

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

206

FAO-1541-2014 (O&M)
Date of Decision : 30.08.2019

Mam Deen

.... Appellant

Versus

Shamsher Singh @ Sheri and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Ms. Sukhpreet Kaur, Advocate
for the appellant.

Mr. Ajay Singla, Advocate
for respondent No.2/Insurance Company.

RAMENDRA JAIN, J. (ORAL)

The claimant has filed the instant appeal against award dated 13.09.2013 of the Motor Accident Claims Tribunal, Patiala (in short, 'the Tribunal') partly accepting his claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short, 'the Act') awarding compensation of Rs.90,000/-against the injury suffered by him in a motor vehicular accident.

Briefly, in the evening of 15.12.1999, the appellant, driving a scooter from Rajpura to his village Baroli, when reached near Octroi Post, Rajpura, offending tanker bearing registration No. PB-13-B/9906 driven by respondent No.1 in a rash and negligent manner, came from the opposite side and struck against his scooter. As a result thereof, appellant received multiple grievous

injuries. He was shifted to Civil Hospital, Rajpura but due to his serious condition, he was referred to PGI, Chandigarh. The matter was reported to the police. FIR No.387 dated 15.12.1999 under Sections 279/337/338 IPC was registered at Police Station Sadar Rajpura.

With these broad allegations, appellant filed a claim petition under Section 166 of the Act, claiming compensation of Rs.5 lakhs before the learned Tribunal.

Heard.

The learned Tribunal in the impugned award, though mentioned that according to disability certificate, the appellant suffered 40% permanent disability, but did not take it into consideration on the ground that it was not legally proved as its author was not examined.

However, the above observation of the learned Tribunal is liable to be outrightly rejected, in view of the fact that proceeding before a Tribunal under the Act is summary in nature. Therefore, strict rules of Evidence Act to legally prove a document are not applicable. The learned Tribunal was required to consider the disability certificate Ex.P34 produced by the appellant, inasmuch as no evidence was led against it by the opposite side to falsify the same. The appellant was operated for the first time on 07.04.2000 and again on 17.06.2000 for his right eye.

Learned Tribunal has also erred in not appreciating the evidence of PW4 Dr. Sandeep. Senior Resident, Neuro Surgery,

PGI, Chandigarh who medico-legally examined the appellant and submitted his report Ex.P8. PW1 Dr.M.R.Dogra, Eye Department, Post Graduate Institute, Chandigarh also categorically testified that on 21.02.2002 appellant had lost eye sight in his right eye, which was not curable. The above witness also proved medical treatment record of the appellant as Ex.P1, disability certificate Ex.P2, besides copy of ultrasound Ex.P3 and physical checking of the appellant as Ex.P4.

According to the evidence led by the appellant before the learned Tribunal, he was a carpet weaver. Thus, it is apparent that loss of complete vision of his right eye must have definitely reduced or diminished his efficiency and earning capacity, inasmuch as there is a major role of eyes and hands in carpet weaving. In normal circumstances, Rs.2,000/-per percent disability is awarded in motor accidental claim cases. However, considering the peculiar facts and circumstances of the instant case, the said method cannot be applied in this case. The appellant was earning Rs.7,000/- per month and his age was 35 years at the time of accident. Complete loss of his right eye, in the considered opinion of this Court, must have reduced earning capacity of the appellant at least to the extent of 30%. It comes to Rs.2800/- per month and annually Rs.33,600/-. Considering the age of the appellant as 35 years, multiplier of 16 is applied towards the reduction in earning capacity of the appellant. While applying the same, the adequate compensation ought to have been awarded to the appellant by the

Tribunal comes to Rs.5,70,600/-. That apart PW1 Dr.M.R.Dogra has testified that in both operations, the appellant must have incurred approximately Rs.30,000/- towards medical expenses. The same is also awarded to the appellant. Besides above, the appellant is held entitled to Rs.20,000/-and Rs.10,000/-awarded to him by the learned Tribunal towards special diet and his attendant charges etc. Taking into account, all the above figures, appellant is held entitled to a total compensation of Rs.5,97,600/- less Rs.90,000/- already awarded by the learned Tribunal. Meaning thereby, the claimant-appellant is entitled to ₹5,07,600/- more over and above the compensation awarded by the learned Tribunal.

In view of the above, the claimant-appellant is held entitled to compensation of Rs.5,07,600/-more over and above the compensation already awarded by the learned Tribunal, vide Award impugned herein. Respondent No. 3-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellant, in accordance with law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% from the date of institution of claim petition till realization.

The instant appeal stands disposed of, accordingly.

August 30, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No