

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2122 of 2014 (O&M)
Date of decision: 7.5.2019

Sher Singh

.. Appellant

v.

Dholia @ Dharmender and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ramender Chauhan, Advocate for the appellant.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 26.10.2013 passed by the Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the injuries sustained in a motor vehicular accident.

The facts emanating from the record are that on 13.2.2010, Sher Singh along with his son Surender was going to village Barsna. On their way, Sher Singh was struck by a jeep bearing registration No. DL-5CB-1827 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, he fell down and sustained injuries. He was taken to General Hospital, Bhiwani from where he was referred to PGIMS Rohtak. FIR No. 72 dated 13.2.2010 was registered at Police Station Sadar, Dadri.

A claim petition was filed claiming that the claimant suffered grievous injuries and was operated upon and even steel rods were inserted

in his hand and leg. The Tribunal after considering the facts and

appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of ₹1,20,000/- along with interest @ 6% per annum. The amount awarded included ₹70,000/- for purchase of medicines, doctor's charges and hospitalisation and ₹50,000/- on account of pain and sufferings. The insurer of the offending vehicle was held liable to pay the compensation but was granted recovery rights as the driver of the offending vehicle was not holding a valid driving licence at the time of accident.

Learned counsel for the appellant argues that the amount awarded is on the lower side and various pecuniary and non-pecuniary heads were not considered by the Tribunal while awarding the compensation.

The contention raised by learned counsel for the appellant lacks merit. From the perusal of the award, it is evident that no evidence with regard to the nature of injuries and the treatment given to the claimant was placed on record. No official from any hospital was produced to prove the period of hospitalization. No doctor was examined to support the pleadings made in the claim petition that the claimant underwent surgery and rods were inserted in his hand and leg. There is nothing on record to establish any temporary or permanent disability suffered by the claimant. In spite of availing various opportunities, learned counsel for the appellant has made a statement today that the appellant is not providing any disability certificate and he is restricting the claim only for enhancement under other heads.

The Tribunal while awarding the compensation has considered medicines, hospitalisation and doctor's charges and awarded ₹70,000/-.

Though ₹50,000/- has been awarded on account of pain and sufferings, the

amount awarded would cover other heads also. If the amount awarded under one head is sufficient to cover within its ambit other heads. The Supreme Court in **D.M., Oriental Insurance Co. Ltd. v. Swapna Nayak**, AIR 2017 SC 692 held as under:

“18. When we find that under one head, reasonable amount has been awarded and under another head, nothing has been awarded though it should have been so awarded and at the same time, we notice that eventual figure of the award of compensation payable to the claimants appears to be just and reasonable then in such eventuality, we do not consider it proper to interfere in such award in our appellate jurisdiction under Article 136 of the Constitution. In other words, if by applying the tests and guidelines, we find that overall award of compensation is just and fair, then, in our view, such award deserves to be upheld in claimants' favour. We find it to be so in the facts of this case having taken note of all relevant facts and circumstances of the case.”

No interference is called for in the impugned award.

The appeal is dismissed accordingly.

Since the appeal has been decided on merits, the question of limitation is left open.

(AVNEESH JHINGAN)
JUDGE

7.5.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No