

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

221

FAO-4509-2015 (O&M)
Date of decision: 20.08.2019

MANGAT RAM

... Appellant

Versus

BILLU SINGH

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. HR Bhardwaj, Advocate for the appellant.
Mr. Janak S. Bhinder, Advocate for the respondent.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 01.04.2015 passed by the Motor Accidents Claims Tribunal, Sangrur whereby compensation has been assessed in respect of injuries sustained by Billu Singh in a motor vehicular accident that took place on 20.09.2010.

The Tribunal assessed compensation to the tune of Rs7,26,832/-, detailed hereunder:-

Medical expenses	Rs.2,35,332/-
Transportation charges	Rs.20,000/-
Attendant charges	Rs.27,000/-
Loss of future earnings	Rs.3,24,000/-
Special diet	Rs.20,000/-
Pain and sufferings	Rs.50,000/-
Loss of earning during the period of treatment	Rs.40,500/-
Loss of expectation of life	Rs.10,000/-

However, since 50% negligence has been attributed to the injured, only 50% of aforesaid compensation i.e. Rs.3,63,416/- has been paid to the claimant.

Counsel for the appellant would argue that respondent/claimant has failed to adduce sufficient much less cogent and convincing evidence to prove that negligence to any extent can be attributed to the appellant for the unfortunate occurrence. It is argued that the respondent was driving the motorcycle in a drunken condition with two pillion riders and hit the motorcycle in the jeep of appellant, therefore, entire negligence in causing the accident is liable to be attributed to the injured himself. He has also assailed assessment of compensation made by the Tribunal on the ground

that bills with regard to medical expenses have not been proved in accordance with law and the same are marked documents.

Another submission made by counsel is that the Tribunal has awarded Rs.20,000/- for transportation charges but there is no documentary evidence with regard to expenses incurred on transportation. In addition, it is argued that the Tribunal has taken into consideration the entire disability of 40% for computing loss of future income to the tune of Rs.3,24,000/-.

Counsel representing the respondent/claimant has supported findings of the Tribunal both on the question of rash and negligent driving as well as assessment of compensation.

The injured claimant appeared in the witness box and reiterated his plea that accident is the result of rash and negligent driving of offending vehicle by the appellant. His testimony finds corroboration from that of Balram Singh CW2, an eyewitness to the occurrence. Counsel for the appellant has failed to point out any tangible material brought forth in cross examination of aforesaid witnesses to discard or disbelieve their testimony that the accident is the result of rash and negligent driving of offending vehicle by the appellant.

The Tribunal has attributed 50% negligence to the claimant merely on the premise that there were two pillion riders in place of one on the motorcycle driven by him. In the given circumstances, I find it difficult to accept contention of the appellant that negligence to the extent of 50% attributed to the appellant is faulty or findings of the Tribunal on issue No.1 are not based upon materials on record or correct appreciation of evidence led by the parties. Accordingly, findings of the Tribunal on issue No.1 are liable to be affirmed and ordered accordingly.

This brings the Court to quantum of compensation assessed by the Tribunal. The claimant produced original bills though marked as mark B onward referred to under the head 'medical expenses'. It has also been proved on record that the injured remained hospitalised in DMC, Ludhiana from 20.09.2010 to 30.09.2010, 07.07.2010, 13.10.2010 to 15.10.2010, 06.06.2011 to 12.06.2011, 17.06.2011 to 23.06.2011 and 24.06.2011 to 30.06.2011. The total value of the bills is Rs.2,35,332/-. The proceedings before the Tribunal are summary in nature and strict principles of law of

evidence and Code of Civil Procedure are not attracted. This apart, if the Tribunal had any doubt with regard to correctness of the bills produced on record, it was obligation of the Tribunal to call concerned witness for proving those documents or the Tribunal could call upon the claimant to formally prove the bills in respect of medical expenses. In this view of the matter, I find myself unable to be persuaded with the arguments of counsel for the appellant that original bills produced on record have wrongly been made basis for reimbursement of medical expenses to the tune of Rs.2,35,332/-.

Taking into consideration the period of hospitalisation at different intervals coupled with that claimant is a resident of village Chhajli, Tehsil Sunam, District Sangrur, I do not find any reason to differ with assessment of compensation towards transportation expenses. Since the claimant suffered disability to the extent of 40% qua the entire body and he has been treated as a labour, assessment of future loss of income by treating functional disability to the tune of 40% cannot be said to be erroneous. I have also gone through assessment of compensation under various heads detailed in para 23 of the award but unable to find that the Tribunal has allowed compensation in excess that would call for intervention.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed with costs.

20.08.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No