

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4550-2015 (O&M)
Reserved on:16.10.2018
Date of decision:17.01.2019

Hardutt

... Appellant

Versus

Mohd. Dilgan Ansari & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Satnam Singh Thakur, Advocate and
Mr. Gopal Sharma, Advocate for the appellant.

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

...

TEJINDER SINGH DHINDSA, J.

Injured/victim, Hardutt has filed the instant appeal seeking enhancement of compensation on account of injuries that he had suffered in a motor vehicle accident that took place on 05.06.2013.

The Motor Vehicles Claim Tribunal, Gurgaon vide award dated 09.01.2015 has awarded a total compensation amount of Rs.4,51,467/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

It is the contention raised by counsel appearing for the appellant that the compensation amount awarded by the Tribunal is grossly inadequate and prays for enhancement under various heads.

Per contra, counsel representing the contesting/Insurance Company states that the compensation amount awarded is just and adequate and contends that there would be no scope for enhancement.

Counsel for the parties have been heard at length. Perused the

case paper book as also records of the case.

Brief facts of the case are that a claim petition had been filed under Section 166 of the Motor Vehicles Act by the appellant/injured Hardutt on the averments that on 05.06.2013, he was pillion riding on a motorcycle being driven by his relative Sh. Khyali Ram. At about 11 p.m., the motorcycle was struck by a Tata Canter vehicle bearing registration No.HR-47-B-2571 and which was being driven in a rash and negligent manner. Appellant is stated to have received multiple injuries and was taken to Vinayak Healthcare Hospital, Gurgaon and having been administered first aid, was shifted to Samvit Healthcare Islampur, Gurgaon. A compensation amount of Rs.5 lakhs along with interest @ 18% per annum was claimed.

Tribunal in the award dated 09.01.2015 has returned finding in favour of the claimant/appellant and has held that he suffered injuries in the accident that took place on 05.06.2013 on account of rash and negligent driving of the offending vehicle.

Insofar as the quantum of compensation is concerned, total amount of Rs.4,51,467/- has been computed.

In the considered view of this Court, there would be no scope for any enhancement in the compensation amount that has been granted by the Tribunal.

It may be noticed that towards treatment, hospitalization and medical expenses, the claimant/appellant had produced/exhibited bills worth Rs.1,45,667/-. The Tribunal has not only awarded such amount but has taken note of the situation that many a times all the medical bills are not preserved by an injured and accordingly, has awarded an additional sum of Rs.10,000/-

under such head. Rs.1,55,667/- as such has been awarded towards treatment, hospitalization and medicines etc.

Claimant/appellant had claimed a sum of Rs.53,700/- towards transportation. Tribunal has rightfully taken a view that such amount claimed towards transportation expenses is highly exaggerated but has awarded a sum of Rs.15,000/- instead. The same is affirmed. The Tribunal has further awarded a sum of Rs.10,000/- towards nutritious diet. Another sum of Rs.10,000/- has been awarded under the head of miscellaneous expenditures. The same also does not call for any interference.

The appellant/injured before the Tribunal had set up a claim that he remained on bed for about 6 months and as such, requires to be compensated on account of loss of earnings during such period. Further compensation was claimed on account of loss of earnings on the ground that he has suffered permanent disability on account of a fracture having been suffered.

It may be noticed that the appellant/claimant had examined PW3, Dr. Virender Baswana, Senior Medical Officer, General Hospital, Gurgaon and who deposed that the claimant had suffered disability to the extent of 8% on account of fracture, tibial plateau left side. The disability certificate was exhibited as Ex.P18. PW3 further deposed that the disability is qua a particular limb and not qua the whole body

Claimant had asserted that he was running shop of *pan, biri* cigarettes and cold drinks etc. and was earning Rs.15,000/- per month. No evidence had been led to substantiate such plea. Claimant had also not demonstrated as to in what manner the disability of 8% qua the limb alone

would effect his earning capacity particularly against the backdrop of his running a shop of *pan, biri*, cigarettes and cold drinks etc. Inspite thereof, the Tribunal has assessed the functional disability towards loss of future earnings to be 5%. Monthly income of the claimant/injured was assessed as Rs.7000/- per month and having accepted his age to be 43 years, a multiplier of 14 was applied. The Tribunal has granted an amount of Rs.58,800/- towards future loss of earning (Rs.7000 x 12 x 14 x 5%). In the same line of reasoning, even loss of earning during the period of treatment has been assessed and awarded as Rs.42,000/- (Rs.7000 x 6). No enhancement under such head is called for.

Still further, inspite of there being no clear evidence with regard to future course of medical treatment, an amount of Rs.10,000/- has been awarded in favour of the appellant under such head.

Rs.50,000/- has been awarded under the head of pain and suffering and a like amount of Rs.50,000/- on account of loss of amenities. Yet another sum of Rs.50,000/- has been awarded under the head of loss of expectation of life.

This Court finds that the total compensation amount awarded of Rs.4,51,467/- is in terms of the well settled principles governing the compensation on account of injuries suffered in a motor vehicle accident.

This Court does not find any scope for enhancement in the compensation amount that has been awarded.

Appeal is accordingly dismissed.

17.01.2019

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |