

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

FAO No.4891 of 2016 (O&M)

Date of decision: 05.11.2019

Devi Ram Memorial School

....Appellant

Versus

Rahul and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ajay Kumar Sharma, Advocate,
for the appellant.

Mr. Ashwani Arora, Advocate,
for respondent No.1.

Mr. Subhash Goyal, Advocate,
for respondent No.2.

RITU BAHRI J. (Oral)

Appellant-Devi Ram Memorial School (owner of offending vehicle) has come up in appeal against the Award dated 13.01.2016 passed by the Motor Accident Claims Tribunal, Palwal, whereby compensation of Rs.1,06,000/- has been awarded in favour of claimant-respondent No.1 on account of injuries received by him in a motor vehicular accident, which took place on 16.12.2013.

The appellant is challenging the impugned award on the ground that claimant (respondent No.1 herein) had never been admitted in Irena Cosmos Hospital and compensation of Rs.82,000/- on account of medical expenses, in this regard, has been wrongly granted by the Tribunal.

Learned counsel for the appellant has argued that the claimant had not led sufficient evidence to prove that he was admitted in Irena

Proprietor, Jindal Digital, X-ray, inside Cosmos Hospital, Palwal (PW-4) has not been correctly appreciated by the Tribunal.

In para no.13 of the impugned award, Tribunal has observed that PW-4 Lalit Kumar has proved bills Ex.P2, Ex.P3 and Ex.P6 in respect of claimant-Rahul and Ex.P4 and Ex.P5 in respect of claimant-Prem Raj.

On a specific query put to learned counsel for the appellant, he states that vide impugned award, two claim petitions (MACT Case Nos. 62 of 2014 and 63 of 2014) in respect of claimants Rahul and Prem Raj, were decided together.

Learned counsel has referred to the cross-examination of Lalit Kumar (PW-4), where he stated that he did not bring any x-ray report and bills were not issued by him. Those bills were not issued in his presence. However, he denied that those bills have been wrongly issued to the claimant to help him. He was only a graduate and could not give opinion about x-ray report.

Cross-examination of Lalit Kumar (PW-4) cannot be made a ground to discard the bills as he had merely brought the summoned record. The fact that he had not brought any x-ray report was not relevant as the bills issued by Jindal Digital X-ray inside Cosmos Hospital, Palwal have been duly proved. Further, Jitender, Pharmacist Assistant, Irene Cosmos Hospital (PW-5) proved the bills Ex.P7 to Ex.P12 in respect of claimant Rahul. During cross-examination, he admitted that the bills had been issued on behalf of the Jindal Medicines, which was a shop. He was a graduate and could not tell, for what purpose, the medicines were required. He had denied that those medicines were sold on false and factitious recommendation. He further denied that those bills were false and forged one. Keeping in view

the testimony of this witness, finding of the Tribunal with respect to the above said bills has been rightly given. Lalit Kumar, Record Keeper, Irene Cosmos Hospital, Palwal (PW-6) brought the record of bills Ex.P13 to Ex.P17 in respect of claimant Prem Raj and Ex.P14 to Ex.P16 in respect of claimant Rahul. He had seen Ex.P18, which was a certificate issued by the above said hospital. During cross-examination, this witness had admitted that as per certificate Ex.P18, claimant-Rahul was admitted in the hospital after the road side accident on 16.12.2013. He denied that there were fake receipts.

After going through the deposition of Lalit Kumar, Proprietor (PW-4), Jitender, Pharmacist Assistant (PW-5) and Lalit Kumar PW-6), bills issued in favour of claimant Rahul and Prem Raj stood duly proved. Since, the owner (appellant) has not filed any appeal against the award passed in case of Prem Raj, who also received injuries in the same accident, the same has attained finality. The accident is also not in dispute between the parties.

In view of the above discussion, this Court is of the view that compensation in favour of claimant-respondent No.1 has been rightly awarded by the Tribunal and no ground is made out to interfere therein. Evidence has been appreciated in the right perspective.

No merits. Dismissed.

(RITU BAHRI)
JUDGE

05.11.2019
ajp

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