

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 8507 of 2014 (O&M)

Date of decision : 29.7.2019

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Saranjeet Singh

.....Appellant

vs.

Manjeet Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Argued by : Mr. Arpandeeep Narula, Advocate for the appellant.

Ms. Gunkirat Kaur, AAG, Punjab for respondent No.2.

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H. S. Madaan, J.

CM 23128-CII of 2014

This is an application for condonation of delay of 13 days in filing the present appeal.

For the reasons mentioned in the application, such delay in filing the appeal stands condoned.

The application is allowed.

Main case.

On account of suffering multiple injuries on his person in a roadside accident, which took place on 11.5.2012, at 9.15 A.M. in the area of near Punjabi Dhaba, National Highway No.22, Kalka, statedly on account of rash and negligent driving of bus No. PB-10-CS-6819

(hereinafter to be referred as 'the offending bus'), belonging to Punjab Roadways, Jagraon Depot, District Ludhiana, by Manjeet Singh - respondent No.1, Saranjeet Singh, injured, aged about 53 years, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, against respondents – Manjeet Singh, driver, The General Manager, Punjab Road Transport Corporation, Jagraon, District Ludhiana -owner as well as Insurance company of the said bus. However, particulars of the Insurance company which were required to be disclosed by respondents No. 1 and 2, were not furnished, as such it is to be taken that the offending bus was not insured at the relevant time.

On being put to notice, both the respondents appeared and filed separate written statements, contesting the claim petition. Issues on merits were framed. Parties were afforded adequate opportunities to lead their respective evidence. After hearing the arguments, the Motor Accident Claims Tribunal, Panchkula, vide award dated 15.5.2014, awarded compensation of Rs.4,55,600/- to the claimant payable by respondent No.2 alongwith interest @ 7.5% per annum from the date of filing of claim petition till actual realization.

The petitioner – claimant was not satisfied with the amount of compensation awarded to him by the Tribunal and he has approached this Court by way of filing of an appeal seeking enhancement of compensation amount.

Notice of the appeal was given to the respondents, however, only respondent No.2 – State of Punjab has put in appearance through State counsel.

I have heard learned counsel for the parties, besides going through the record.

The Tribunal on appraisal of the evidence brought before it by the parties, came to the conclusion that respondent No.1 was author of the accident by rash and negligent driving of the offending bus and petitioner claimant had suffered injuries in the said mishap. While coming to such conclusion, the Tribunal took into view the fact that the FIR (Exhibit P-1) for offences under Sections 279, 337 and 338 IPC, had been registered against respondent No.1 on statement of injured-claimant, for causing the accident. It was further taken note of that respondent No.2 had admitted the accident in its written statement whereas respondent No.1 had not stepped into the witness box to depose otherwise that he was not rash and negligent driver of the offending bus. With regard to the finding on issue No.2, the Tribunal granted compensation to the claimant as per following table:-

<i>Head</i>	<i>Amount (in Rs.)</i>
Medical Bills (as per receipts on record)	46,827/- = 47,000/-
Loss of income (during admission in the hospital)	20,533/- = 20,600/-
Pain and suffering	1,00,000/-
Special diet	5,000/-
Transportation	5,000/-
Loss of earning capacity @ 30% of monthly income	2,100/-
Total loss of income	2100 x 12 x 11 = 2,77,200/- = 2,78,000/-
Total compensation (in Rs.)	4,55,600/-

However, while granting compensation to the claimant for

medical treatment, only the amount which was arrived at considering the documentary evidence produced by the claimant in the form of bills, receipts, cash memos, was taken into consideration. The amount so awarded being Rs.47,000/-. However, no compensation has been given for future treatment of the claimant. Considering nature of the injuries suffered by him with permanent disability of 30%, as per disability certificate, proved in evidence, he would be requiring future treatment also. A sum of Rs.20,000/- is awarded to him in that regard.

The Tribunal has awarded a sum of Rs.20,600/- to the claimant towards loss of income during admission in the hospital. As it transpires from the record, more particularly from affidavit (Exhibit PW 1/A) of the claimant appearing as PW-1, after accident, he was taken to Civil Hospital, Kalka from where he was referred to PGI, Chandigarh. He remained admitted in PGI, Chandigarh from 11.5.2012 to 6.8.2012. He had been going there for follow up as outdoor patient. He had claimed that he was aged 55 years at the time of accident, doing a private job as a skilled labourer in different factories at Parwanoo, earning Rs.7,000/- per month. Under the facts and circumstances of the case, the loss of income is enhanced to Rs.35,000/-.

The Tribunal has awarded a sum of Rs. 1,00,000/- to the claimant towards pain and suffering. The amount is quite sufficient and does not call for any enhancement.

However, the amount awarded for special diet and transportation are on lower side and are enhanced to Rs.20,000/- each.

Towards loss of earning capacity @ 30%, a sum of Rs.2,78,000/- has been awarded, which is found to be adequate.

The claimant deserves to be awarded a sum of Rs.20,000/- as attendant charges, since he must have required help of some person to attend to him during the period of his hospitalization as an indoor patient and for going to the hospital for treatment.

Moreover, PW-4 Dr. Mankirat, Deputy CMO, Kalka, who was member of the Board which had examined the claimant and issued disability certificate Exhibit P-57, finding disability to be 30%, had stated that disability was with regard to his lower limbs. That means, disability is not with regard to the entire body. However, certainly claimant - petitioner would not be able to perform the daily chores and work, which a normal human being can do.

Therefore, total compensation awarded to the claimant comes out to Rs.5,40,000/- as per table given below:-

<i>Head</i>	<i>Amount (in Rs.)</i>
Medical Bills (as per receipts on record)	47,000/-
Future treatment	20,000/-
Loss of income (during admission in the hospital)	35,000/-
Pain and suffering	1,00,000/-
Special diet	20,000/-
Transportation	20,000/-
Loss of earning capacity @ 30% of monthly income (Total loss of income)	2,78,000/-
Attendant charges	20,000/-
Total compensation (in Rs.)	5,40,000/-

Learned counsel for the appellant has referred to authority

K. Suresh vs. New India Assurance Co. Ltd. and another 2013 (1)

RCR (Civil) 312.

However, considering the facts and circumstances of the case and permanent disability, suffered by the claimant-appellant, necessary enhancement is being done under various Heads, wherever required and compensation under the Heads it has not been granted by the Tribunal, has been granted.

The Tribunal has awarded a sum of Rs.4,55,600/-. Thus the claimant is entitled to additional compensation of Rs.84,400/- (Rs.5,40,000 – 4,55,600). The claimant-appellant shall be entitled to get interest @ 7.5% per annum on the additional compensation from the date of filing of appeal till actual realization. The other terms and conditions shall remain the same as in the original award. In that way this appeal is allowed partly.

29.7.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / Nos