

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

FAO No.10155 of 2014 (O&M)
Date of decision: 20th February, 2020

Ramesh Chand

... Appellant

Versus

Vinay Deswal & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vijay Partap Singh, Advocate for
Mr. Nonish Kumar, Advocate for the appellant.
Ms. Sheenu Sura, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

This is an appeal against an award dated 04.08.2014 of the Court of learned Motor Accident Claims Tribunal, Karnal whereby in the claim petition of the claimant Ramesh Chand (present appellant) against the respondents, the Tribunal through impugned Award allowed the claim petition of the appellant partly and awarded a sum of ₹ 1,14,000/- along with interest at the rate of 9% per annum from the date of filing of petition till actual realization.

Heard Mr. Vijay Partap Singh, Advocate on behalf of Mr. Nonish Kumar, Advocate for the appellant; Ms. Sheenu Sura, Advocate for respondent No.2 and perused the records of the case.

It is not in any manner displaced as to the fact that on 06.05.2012 on account of rash and negligent driving of car bearing registration No.HR-26-AC-7769 (in short, 'the offending vehicle') by respondent No.1 Vinay Deswal resulted in accidental injuries to the claimant regarding which FIR No.347 dated 06.05.2012 under Sections 279, 337, 338 IPC was registered at Police Station City Karnal.

The claimant on the averments that he was aged around 43 years working in the Delhi Police and earning ₹ 32,000/- because of injuries has suffered enormously and thereafter had to leave his job and from the owner-cum-driver of the offending vehicle and the insurer M/s IFFCO-TOKIO General Insurance Co. Ltd. claimed compensation.

The learned Tribunal framed the following issues:

1. *Whether the injured Ramesh Chand met with an accident which took place on 6.5.2012 in the area of Police Station, City Karnal due to rash and negligent driving of the respondent No.1 being driver of the offending vehicle bearing No.HR-26AC-7769? OPP*
2. *If issue No.1 is proved in affirmative, whether the claimant is entitled for compensation, on account of injuries, as claimed. If so to what amount, from whom and on what terms and conditions? OPP*
3. *Whether respondent No.1 was not having a valid and effective driving licence at the time of this accident and the offending vehicle was being plied in violation of the*

terms and conditions of the policy, if so to what effect?

OPR

4. *Whether the claim petition is bad for misjoinder or nonjoinder of necessary parties? OPR*
5. *Whether claimant has no locus standi to file and maintain the present petition? OPR*
6. *Relief.*

However, during the course of making submissions learned counsel for the two sides have only pressed claim and counter-claim over the quantum of compensation.

Appreciating the submissions, the appellant has examined himself as PW-3 and sought corroboration of his claim through PW-1 Vipin Kumar and the injuries through PW-2 Dr. J.K. Gulati and proved documents Ex.PW2/A Discharge Summary, Ex.PW2/B IPD Bill-cum-receipt, Ex.PW2/C Particulars of injuries, Ex.PW2/D X-ray report, Ex.P1 to P23 Bills, Ex.P24 MLR, Ex.P25 Final report, Ex.P26 FIR, Ex.P27 DL of Ramesh, Ex.P28 Jamabandi and Mark-A Application to SHO. The respondents have only proved the insurance policy Ex.R1, driving licence of driver of the offending vehicle Vinay Ex.R2 and registration certificate of the offending vehicle Ex.R3.

The very hotly debated submission on behalf of the appellant that on account of these accidental injuries, the claimant could not perform his duties and when posed with the question as to what evidence

has come about, learned counsel for the appellant could not in any manner substantiate the same. No doubt, the claimant has suffered right hip joint fracture for which he was operated upon and the medical record Ex.PW2/A to Ex.PW2/D is corroborative to this. The learned Tribunal while assessing the likely expenses which the claimant might have suffered, had held that since at the time of the accident the claimant was a permanent Government employee and must have been adequately compensated and there could be no cause of loss of earnings, has awarded on account of pain and sufferings a sum of ₹ 50,000/- besides awarding ₹ 20,000/- on account of transportation, attendant and special diet charges. The medical bills proved as Ex.P1 to Ex.P23 only sum up to ₹23,614/- and when PW2 Dr.J.K. Gulati has testified having charged ₹15,000/- on account of operation and hospitalization and thus, summing up all these likely expenses the learned Tribunal has awarded ₹ 44,000/- on account of the same.

The material question posed during the course of submissions if and by what means it is on account of the accidental injuries the claimant had to leave his job and if there was any permanent disability suffered by the claimant or any documentary evidence to show that because of the non performance of his duties he had to leave his job, learned counsel for the appellant was unable to satisfy the Court. Moreover, learned counsel for the appellant accepts the fact as has been

submitted on behalf of the respondent insurer that the claimant appellant is getting pension after he left the job and therefore, is adequately having economic status to make both ends meet. Learned counsel for the appellant could not decipher anything which could be an overwhelming evidence to show that the amount of ₹ 1,14,000/- so awarded was on the lower side and rather it appears to be highly appropriate and commensurate with the evidence and the position of the parties that is reflected in the records. This Court is of the firm view that the present invocation is nothing but purely for an eye on fabulous enhancement of compensation and the Courts need to discourage such claims from coming to the Court purely with such intent. There appears to be no illegality or perversity in the findings under assail before this Court. The appeal being hopelessly meritless stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 20, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No