IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3005 of 2003 (O&M)
DATE OF DECISION :- December 03, 2021

Satish Kumar ...Appellant

Versus

Raj Kumar and others ...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Lekh Raj Sharma Advocate for the appellant.

Mr. Vinod Chaudhary, Advocate for respondent No. 3.

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C.M. No. 7947-CII of 2021

This is an application for fixing some actual date of hearing in the present appeal.

Heard.

Allowed. The main case is taken up today for hearing.

FAO No. 3005 of 2003

On account of suffering injuries in a motor vehicular accident which took place on 15.1.2002 statedly on account of rash and negligent driving of motorcycle Hero Honda bearing registration No. HR-06-G/3023 by Raj Kumar respondent no. 1, such motorcycle belonging to respondent No. 2 Satbir Singh and insured with Respondent No. 3 Oriental Insurance Company Limited, Panipat, appellant claimant Satish Kumar had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988.

According to him, when he met with an accident he was going on motorcycle and the accident had taken place on account of rash and negligent driving of motorcycle bearing registration No. HR-42-3309 by respondent No. 1 Raja. Resultantly, he had suffered injuries causing him permanent disability. After contest the claim petition was accepted by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as the Tribunal) vide Award dated 6.5.2003 compensation of Rs.1,00,801.91/-along with interest at the rate of 9% per annum was awarded to the appellant claimant payable by all the three respondents jointly and severally. While calculating the compensation the Tribunal had considered various factors like age, income of the deceased as well as injuries suffered by the appellant claimant including fracture on his right leg, period of hospitalization, the medical expenses incurred by him etc. The permanent disability was taken to be 15%. Finding the compensation awarded to him to be inadequate, the appellant claimant had approached this Court by way of filing the present appeal, notice of which was given to the respondents, however, only respondent No. 3 Insurance Company had put in appearance through counsel. During the course of proceedings, the appellant claimant had moved an application to place on record photocopies of bills for the medical expenses incurred on treatment of the claimant collectively mentioned as Annexure A1. Notice of that application was given to learned counsel for the Insurance Company. Learned counsel for the claimant and Insurance Company have agreed that for proper appreciation of the position with regard to incurring of further expenses on medical treatment of claimant, the matter needs to be examined by the Tribunal in light of the evidence to be adduced by the claimant to prove such bills etc.

Accordingly, the appeal is disposed of. The impugned Award is set aside to the extent of quantum of compensation, however, the findings with regard to issues No. 1, 3 and 4 are kept intact. The claimant may lead evidence with regard to the medical expenses said to have been incurred by him on his treatment after passing of the Award. The Insurance Company would be given an opportunity to cross examine such witnesses and then to lead evidence in rebuttal, if so advised. Thereafter, the Tribunal may re-assess the compensation and then pass fresh Award. Since the matter is quite old, the entire exercise be completed expeditiously preferably within a period of three months from the date of receipt of copy of this order there. The parties through their counsel are directed to appear before the Tribunal on 20.12.2021. It is further observed that since the Tribunal has held the liability to pay compensation to be joint and several by all the three respondents and only respondent No. 3 Insurance Company is contesting the appeal, the Tribunal may not issue notice to respondents No. 1 and 2 to procure their presence. It is further observed that the amount of compensation already paid to the claimant by the Insurance Company will not be recovered in the meanwhile.

(H.S. MADAAN)
JUDGE

December 03, 2021
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No