

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-6676-2012 (O&M)
Date of Decision: 22.07.2022

Bachchu Singh

..... Appellant

versus

Het Ram and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Devender Kumar, Advocate
for the appellant.

Ms. Vandanaa Malhotra, Advocate with
Ms. Kanika Goyal, Advocate
for respondent No.4-Insurance Company.

PANKAJ JAIN, J.

Claimant is in appeal seeking modification of the award dated 17.09.2012 passed by Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'Tribunal').

2. Claim petition was preferred under Section 166 read with Section 140 of the Motor Vehicle Act seeking compensation on account of injuries suffered by the claimant in a motor vehicular accident on 17.10.2009.

3. As per the claimant, on the fateful day, he alongwith his brother-in-law were travelling from Tappal to Palwal in bus No.UP-81N/9150. It has been claimed that when they were ready to get down on the destination, the driver left the brake. Resultantly, the appellant fell down on the road and suffered multiple and grievous injuries. The appellant was taken to General Hospital, Palwal from where he was shifted to Guru Nanak Hospital, Palwal. FIR No.263 dated

19.11.2009 under Sections 279/337/338 of IPC was registered against respondent No.1 at Police Station Chandhat regarding the said accident.

4. As per MLR Ex.P-6, the claimant suffered following injuries:-

“1. A lacerated contused wound over anteriorly (mid) to lower lip size - 1½ cm x ½ cm and lies of anterior upper and lower teeth; bleeding from gum, multiple varying sizes abrasions over face & forehead. Bleeding from nose and mouth present. Shape of nose deformed. Advice - Dental surgeon opinion Xray – Mandible nasal base.

2. A lacerated wound over chin, size 1½ cm x ½ cm suffered.

3. An abrasion over left side parietal region of skull, size 3½ cm x 2 cm. Advice - X Ray skull - AP (Anterior posterior) Lateral.

4. Multiple abrasion over bilateral upper limb and bilateral knee of varying sizes.

5. A contused lacerated wound at left side elbow size – 2 ½ cm x 1 ½ cm Advice – X Ray left elbow AP Lateral

* same injuries may be added later on.

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5. Claim was contested by the respondents. The scope of the present appeal is confined to issue No.2. The Tribunal while deciding issue No.2 held that:

“11. The petitioner has claimed compensation of Rs. 6,00,000/- from the respondents. He has filed his affidavit Ex. PW2/A in his evidence. He has deposed that in the accident in question he received multiple grievous injuries all over his body. He has further deposed that he remained admitted in Guru Nanak Hospital, Palwal w.e.f. 17.10.2009 to 8.11.2009 and spent Rs. 2,00,000/- on his treatment. PW1 Satbir Singh has proved the bills Ex. P1 to Ex. P5 which show that the petitioner has spent a sum of Rs. 21041/- on his treatment. The petitioner has also

examined PW5 Ajay Gomat who has proved the bill Ex. P9 amounting to Rs.1,03,000/-. In his cross-examination he has stated that he could not say that what treatment was given to the injured. Since this witness has failed to explain about the treatment given to the injured then how he issued the bill of above exaggerated amount. He further stated that the injured remained admitted in ICU but no injury was explained by the petitioner as well as doctor. PW4 Dr. Sandeep Malik has proved the discharge summary Ex. P8 but he also not stated that what type of injury was sustained by the injured. Moreover, there is some over writing in the amount written in figures, so its creates doubt and not admissible in evidence. Therefore, it cannot be believed that the petitioner has spent the amount of bill Ex. P9 on his treatment and as such, this bill cannot considered. However, it may be assumed some amount must have spent by the petitioner for purchasing the medicines/items for which no bill is issued by the Shopkeepers. Keeping in view all the facts and circumstances of the case, a sum of Rs. 22,000/- is allowed to the petitioner as medical expenses.

12. The accident took place within the jurisdiction of Police Station Chandhat on 17.10.2009 and the petitioner was taken to General Hospital, Palwal and thereafter to Guru Nanak Hospital, Palwal for treatment. It may also be assumed during treatment he must have been suffered a lot of pain and agony and have taken some special diet during the stay in hospital. Keeping in view all facts and circumstances of the case a sum of Rs.5000/- is allowed to the petitioner for pain and suffering and Rs.5000/- is allowed to the petitioner for special diet.
13. In view of my above discussion, it is concluded that the petitioner is entitled to compensation of Rs.32,000/- only.”

6. Counsel for the appellant has assailed the aforesaid findings recorded by the Tribunal asserting that the Tribunal wrongly disbelieved Ex.P-9. He further

claims that nothing has been paid on account of deformity of nose. Meagre sum of Rs.5,000/- each has been paid for pain and suffering and for special diet.

7. I have heard counsel for the parties and with their able assistance have gone through the records of the case.

8. Having perused Ex.P-9, I find that the Tribunal erred in document Ex.P-9 holding that there is some overwriting in the amount written in figures. It is a hospital bill. Ex.P-9 stands fully proved by testimony of PW-5. Conjoint reading of Ex.P-6 MLR, Ex.P-8 discharge summary and Ex.P-9 hospital bill will show that in the accident, the appellant suffered major injuries on his face. His nose got deformed and he suffered multiple fractures of facial bones including that of Maxilla and that of Mandible. He had to undergo surgery thrice during his treatment from 17.10.2009 till 08.11.2009. The finding recorded qua discarding Ex.P-9 is thus unsustainable. The appellant is held to be entitled for reimbursement of the amount of Rs.1,03,000/- as proved vide Ex.P-9. Nothing has been paid on account of loss of income. The claimant remained hospitalized for around one month. He is said to be agriculturist by profession. Thus, loss of income for one month is assessed to be Rs.6,000/-. Apart from Rs.1,03,000/-, Rs.22,000/- as allowed by the Tribunal is maintained. A sum of Rs.15,000/- is awarded as attendant charges and Rs.15,000/- as special diet charges. Rs.50,000/- is also awarded to the appellant for pain and suffering.

9. As a sequel of the discussion hereinabove, the award passed by the Tribunal stands modified. Rest of the award is maintained. The appellant shall be entitled for interest as awarded by the Tribunal. Needless to say any amount already paid shall be set off and adjusted.

10. Appeal stands allowed.

11. Since the main appeal has been decided, the pending civil miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

22.07.2022

Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No