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

FAO-4128-2016 (O&M)

Reserved on: 07.12.2022

Pronounced on:09.12.2022

Dinesh Kumar

..... Appellant

Versus

Suresh Kumar and Others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.Parminder Singh, Advocate,for the appellant.

Mr.Vishal Sharma, Advocate, for respondent No.1.

Mr.Munish Goel, Advocate, for respondent No.3.

HARKESH MANUJA, J.

CM-14039-CII-2016:

This is an application seeking condonation of delay of 733 days in filing the appeal.

For the reasons mentioned in the application, which is supported by an affidavit, sufficient cause has been shown for condoning the delay on account of appellant being generally out of station due to the nature of his job, thus, the same is allowed and delay of 733 days in filing the appeal is condoned, however, it is made clear that the appellant shall not be entitled for award of interest for the period of delay in filing the present appeal.

MAIN CASE:

The present appeal lays challenge to an award dated 21.01.2014 passed by the learned Motor Accident Claims Tribunal, Karnal (in brevity, 'the Tribunal'), whereby compensation of Rs.16,119/- has been awarded to the appellant/claimant along with interest @7.5% per annum.

Brief facts of the case are that on 26.12.2008, when appellant was filling water in the radiator of truck, he was stuck in between the two trucks when the driver/RespondentNo1 was reversing his truck and as a result thereof, appellant suffered blunt injuries in his abdomen and pelvis area. Claim petition filed by the appellant, on account of injuries suffered by him, was partly allowed by the learnedTribunal after holding that the accident was caused due to the rash and negligent driving of respondent No.1 and awarded compensation in the following manner :-

Sr.N o.	Nature	Amount in Rupees
1.	Hospitalization	Rs.3,500/-
2.	Medical expenses	Rs.6,619/-
3.	Pain and suffering	Rs.5,000 /-
4.	Loss of Income	Rs.1,000/-
	TOTAL:	Rs. 16,119/-

Being aggrieved against the award dated 21.01.2014, the present appeal has been preferred by the appellant/claimant for enhancement of compensation.

Learned counsel for the appellant contends that despite the specific testimony of PW3-Dr. Sandeep Sachdeva that the appellant would require 4-5 months bed rest, no compensation has been awarded on account of ‘loss of income for this period’. He further contends that no compensation has been awarded under other pecuniary heads like ‘special diet’, ‘attendant charges’ and ‘transportation’ and even the compensation awarded under the non-pecuniary headings merely being Rs.5000/-is extremely on lower side.

Per contra, learnedcounsel for the Insurance Company contends that appellant remained hospitalized only for 5 days and no fracture or permanent disability was caused due to this accident and therefore, compensation awarded by the learned Tribunal is just and fair.

I have heard learned counsel for both the parties and gone

through the paper book as well. I find some force in the argument raised by the learned counsel for the appellant. In the testimony of PW3-Dr. Sandeep Sachdeva, it has come on record that the appellant was advised for follow up medication and bed rest for 4-5 months, however, learned Tribunal did not award any compensation for the loss of income during this period, having relied upon the testimony of PW2-Dr. N.K. Goyal, Orthopedic Surgeon of Sachdeva Hospital, Karnal; after noticing that no such bed rest was advised by him. In my considered opinion, learned Tribunal has erred in this regard as even in the testimony of PW2 - Dr. N.K. Goyal, it has been deposed that the appellant was being treated by PW3-Dr. Sandeep Sachdeva and as such in that case, treatment or advice given by him should have been given due weightage. Therefore, appellant is entitled for the compensation 'for loss of income during treatment'. In claim petition, his income at that time has been declared as Rs.4500/- and therefore, on this account compensation of Rs.22,500/- (Rs.4500 X 5) is awarded.

Further, it cannot be denied that appellant must have incurred some expenses on account of special diet, attendant charges and transportation, therefore, on all these accounts, cumulatively, Rs.15000/- is awarded to the appellant under these heads.

Though, no permanent disability has been caused to the appellant due to this accident, however, as he remained hospitalized for five days and was advised bed rest for 4-5 months, compensation of Rs.5000/- awarded on account of pain and suffering also appears to be on extremely lower side and Rs.20,000/- is awarded under non-pecuniary headings including pain and suffering and loss of amenities.

In view of what has been stated hereinabove, the appellant shall be entitled for the grant of following compensation:-

Sr. No.	Nature	Amount in Rupees
1.	Hospitalization	Rs.3,500/-
2.	Medical Expenses	Rs.6,619/-
3.	Loss of Income during treatment	Rs.22,500/-
4.	Non-Pecuniary Heads (Pain and sufferings, Disability, loss of amenities and enjoyment of life)	Rs.20,000/-
5.	Attendant charges, Transportation and Special Diet	Rs.15,000/-
	Total Compensation	Rs.67,619/-
	Amount Awarded by the Tribunal	Rs.16,119/-
	Enhanced Amount	Rs.51,500/-

The grant of interest @ 7.5% per annum is not just in view of the facts and circumstances of the present case; rather as per the observations made by the Hon’ble Supreme Court in **Smt. Supe Dei and othersVs. National Insurance Company Limited and other**, (2009) (4) SCC 513 approved in a subsequent judgment titled as **Puttamma and others Vs. K.L. Narayana Reddy and another**, 2014 (1) RCR (Civil) 443, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claims shall be deducted from the enhanced compensation.

Consequently, the present appeal is disposed off in the above terms.

Pending miscellaneous application(s), if any, shall also stand disposed of.

December 09,2022
anil

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No