IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1717 of 2017 (O&M)

Date of decision: 22nd August, 2022

Surinder Singh

… Appellant

Versus

Gurparkash Singh & others

… Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sahil Abhi, Advocate for the appellant.

Mr. Ish Puneet Singh, Advocate for
Mr. Salil Sabhlok, Advocate for respondent No.3.

Mr. Dinesh K. Prajapati, Advocate for respondent No.4.

MANJARI NEHRU KAUL, J.

CM No.5721-CII of 2017

In the light of averments made in the application, which is duly supported by an affidavit, in the light of settled position that a party should not be denied access to justice on hyper technical grounds and in the interest of justice, taking a lenient view, delay of 4 days in filing the present appeal is condoned.

The application stands disposed off accordingly.

FAO No.1717 of 2017

The instant appeal has been preferred by the injured claimant to challenge the Award dated 02.07.2016 passed by the learned Motor Accident Claims Tribunal, Ludhiana in claim petition filed under

Section 166 of the Motor Vehicles Act, 1988, wherein he was awarded compensation in the sum of ₹ 2,86,000/- on account of the injuries received by him in a motor vehicular accident which took place on 31.05.2014.

Learned counsel has impugned the award on the ground that the total expenditure incurred by the claimant was ₹ 1,66,000/-, however, the learned Tribunal had erred in deducting ₹ 80,000/-. He submits that the aforementioned amount had been deducted on the ground that the claimant had been reimbursed out of the Group Personal Accidental Policy taken by him, to the extent of the deducted amount.

Per contra, learned counsel for the respondent Insurance Company, while opposing the prayer and submissions made by the counsel opposite, has vehemently argued that the deductions which had been made to the extent of ₹ 80,000/- by the Tribunal, was perfectly justified as the injured claimant had already been reimbursed from the Group Personal Accidental Policy and hence, he could not be again permitted to be compensated for the same expenditure.

I have heard learned counsel for the parties and perused the relevant material on record.

The Hon'ble Supreme Court in ***Helen C. Rebello Vs. Maharashtra State Road Transport Corporation, 1998 AIR (SC) 3191***, has categorically held that the compensation awarded under the Motor Vehicles Act is statutory in nature, whereas, under an insurance policy, it is akin to a contract between the insured and the insurer. In an insurance policy, the insured contributes his own money, whereas, the amount of compensation received under the Motor Vehicles Act, on account of an injury received or death, is not a result of any contribution made by the claimants. It would be relevant to reproduce the observations of the Apex Court in ***Helen C. Rebello's case (supra)***:-

> *“This is based on the principle that the claimant for the happening of the same incidence may not gain twice from two sources. This, it is excluded thus, either through the wisdom of legislature or through the principle of loss and gain through deduction not to give gain to the claimant twice arising from the same transaction, viz., same accident. It is significant to record here in both the sources, viz., either under the Motor Vehicles Act or from the employer, the compensation receivable by the claimant is either statutory or through the security of the employer securing for his employee but in both cases he receives the amount without his contribution. How thus an amount earned out of one's labour or contribution towards one's wealth, savings, etc. either for himself or for his family, which such person knows, under the law, has to go to his heirs after his death either by succession or under a will could be said to be the 'pecuniary gain' only on account of one's accidental death. This, of course, is pecuniary gain but how this is equitable or could be balanced out of the amount to be received as compensation under the Motor Vehicle Act. There is no co-relation between the two amounts. Not even remotely. How can an amount of loss and gain of one contract could be made applicable to the*

> *loss and gain of another contract. Similarly, how an amount receivable under a statute has any co-relation with an amount earned by an individual. Principle of loss and gain has to be on the same place within the same sphere, of course, subject to the contract to the contrary or any provisions of law."*

This Court, in the wake of the above ratio of law, concurs with the submissions made by the learned counsel for the appellant. The learned Tribunal has thus erred in deducting ₹ 80,000/- out of the total expenditure incurred by the claimant during his medical treatment on account of the accident in question. The claimant shall stand entitled to be compensated in the amount of ₹ 80,000/- also, which was ordered to be deducted, along with interest at the rate of 7.5 % per annum from the date of filing of the claim petition till realization of the amount.

Consequently, the instant appeal is disposed off and the impugned Award is set aside and modified accordingly to that extent.

(MANJARI NEHRU KAUL)
JUDGE

August 22, 2022
rps

Whether speaking/reasoned Yes/No
Whether reportable Yes/No