

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.42 of 2015

1. Lalit Kumar Son of Sri Ram Dhayan Singh
2. Smt. Meera Mahto Wife of Sri Lalit Kumar
Both are residents of Shantinagar, P.S.- Sitamarhi (Mehsaul O.P.), District - Sitamarhi, permanent residents of Chitragupta Nagar, South of Shiv Temple, Road No. 4, Kankarbagh, Patna

... .. Appellants

Versus

1. Siya Gope Son of Late Sanichar Gope Resident of Notha, Fatwah, P.S. - Fatwah, District - Patna. Owner of Truck bearing Registration No. BR-1A/9622. Opposite Party No. 1 in the claim case
2. Shyam Babu Son of Sri A. Prasad Resident of Mohalla - Malsalami, Madho Mill, P.S. - Malsalami, Patna City, Patna. Driver of Truck, Bearing Registration No. BR-1A/9622 (Opposite Party No. 2 in the claim case)
3. Regional Manager, The New India Assurance Company Ltd., B.S.F.C. Building, 6th / 7th Floor, Frazer Road, Near Dr. C.P. Thakur House, P.S. - Gandhi Maidan, District- Patna.
4. Branch Manager, The New India Assurance Company Ltd., Branch Office II, Hajiganj, Patna City, P.S. (Insurer of Truck bearing Registration No. BR-1A/9622)

... .. Respondents

Appearance :

For the Appellant/s : Mr. Rohit Mishra, Advocate
For the Respondent/s : Mr. Ashok Priyadarshi, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 16-01-2023 Heard learned counsel for the appellants and learned counsel for the respondent Insurance Company.

Appellant is aggrieved by and dissatisfied with the order dated 04.12.2013 and the award dated 14.11.2014 passed by learned Adhoc Additional District and Sessions Judge -V-cum- Motor Accident Claims Tribunal, Patna in Claim case No. 143 of 2004.

By the impugned order, the learned Tribunal has



directed the Insurance Company and its Authority (Respondent Nos. 3 and 4) to pay a sum of Rs. 2,00,000/- to the applicant with interest at the rate of 6% per annum from the date of filing of the claim within one month from the date of receipt of the copy of the order.

Learned counsel for the appellants submits that the Insurance Company has paid the amount. The appellants are, however, aggrieved by the quantum of compensation allowed to them. Learned counsel submits that even as all the medical prescriptions were proved as Exhibit '5', learned Tribunal has awarded only a sum of Rs.25,000/- on account of treatment including conveyance. It is, however, not denied that the claimant had not proved any treatment bill before the learned Tribunal.

As regards the loss of earning again the grievance of the appellant no. 1 is that even as he is in government service and gets his salary, he has lost his promotional avenue because of disability. Learned counsel, however, admits that in course of evidence, neither any oral nor any documentary evidence was laid to show that the applicant lost his promotional avenue because of the kind of disability he suffered in the said accident.

The third grievance of the appellant is on account of



the compensation as regards the compensation laid on account of future treatment. The learned Tribunal has allowed a sum of Rs.25,000/- for future treatment. It is submitted that the appellant no.1 needed much more amount for his future treatment, however, it is again not denied that no evidence on this account was laid before the learned Tribunal.

Learned counsel submits that on account of pain, suffering and trauma, the appellant would have been entitled for Rs.2,00,000/- as his left hand is not working and two fingers have been imputed.

Learned counsel for the Insurance Company has opposed the appeal. It is submitted that in this case, the accident took place on 20.04.2003 and by the impugned order/award, the claimant has been found entitled for the claim amount with interest at the rate of 6% from the date of filing of the claim case. It is submitted that the applicant/appellant no. 1 is in government service and it has been recorded as a matter of finding that he got the salary for the period in which he was under treatment and admittedly his salary is not affected, therefore, the learned Tribunal has rightly recorded that there is no loss of earning.

Learned counsel further submits that on account of



treatment including conveyance no treatment bill was exhibited, hence, no fault may be found with finding of the learned Tribunal on this aspect as well. Similar is the situation with respect to the pain, suffering, trauma and future treatments. It is, thus, submitted that the tribunal has taken a correct view on the basis of the evidence available on the record.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that there are some undisputed and admitted facts. The applicant/appellant no.1 is in government service. He has received his full salary for the period in which he was in treatment and even as of today, he is in service. As regards his contention that he lost his promotional avenues, no evidence has been led by him. Similarly, as regards his treatment, no treatment bill has been exhibited.

This Court further finds that as regards future treatment, pain, suffering and trauma also, no evidence has been led so as to persuade this Court to take a view other than what has been taken by the learned Tribunal.

This Court, therefore, finds no merit in the appeal. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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