

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
277
FAO-2137-2021 (O&M)
Date of decision: 10.05.2023

Bikram Singh

...Appellant(s)

Vs.

Prabhjot Singh @ Paby & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Beant Singh Seemar, Advocate
for the appellants.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.2,74,300/- granted by Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter referred to as "the learned Tribunal") vide Award dated 17.12.2019 passed in MACT Case No.RT-22 dated 20.03.2018/08.01.2019 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that injured-claimant/appellant had suffered injuries in a motor vehicular accident that took place on 11.01.2018 at about 8:15 pm due to rash and negligent driving of car bearing registration No.HR-26-DD-6490 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as above along with

interest @ 8% per annum from the date of claim petition till realisation of the amount. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellant seeks enhancement of compensation on the grounds that the appellant was earning Rs.30,000/- per month from doing agriculture work and dairy farming. It is further submitted that the appellant had suffered permanent disability to the extent of 40% as evident from disability certificate (Exhibit P124). It is submitted that despite the fact that the said disability certificate was duly proved by PW2 however, learned Tribunal has ignored this vital piece of evidence. It is further submitted that disability of the appellant should be taken as 100% in view of the fact that the appellant was an agriculturist by profession and his working capacity has been seriously affected as a result of the injuries suffered by him in the accident in question.

4. No other argument is raised on behalf of the appellants.

5. I have heard learned counsel for the appellants.

6. Perusal of impugned Award shows that the findings of the learned Tribunal in respect of the alleged disability of the appellant are recorded in para 11 of the impugned Award which is reproduced hereinbelow:-

“11. The claimant has put forth a case to the effect that he had sustained injuries in the accident. At the first instance he was taken to Civil Hospital, Kharar and thereafter, to GMCH,

Sector 32, Chandigarh. He had sustained multiple injuries and had also got the treatment from GMCH, Sector: 32, Chandigarh. In order to prove his admission in GMCH Hospital, the claimant has examined PW3 Tirlok Nath, File Restorer, GMCH, Sector: 32 Chandigarh, who has brought the record pertaining to the discharge summary of claimant Bikram Singh, and deposed that the claimant was admitted on 12.01.2018 and was discharged on 23.2.2018, in the said hospital, and he has also proved the discharge summary as Ex.P2. There is nothing on record to indicate that the claimant had sustained any permanent disability. In such circumstances, it cannot be construed that there is any loss of future earnings. Ex.P10 to Ex.P122 are the prescription slips/bills with regard to the medical expenses incurred by the claimant which are to the tune of Rs.2,15,294/- (rounded off to Rs.2,15,300/-). The claimant has also produced on record bills for transportation expenses i.e. Ex.P3 to Ex.P9 to the tune of Rs.14,000/-. There is nothing on record that the said record is not genuine, rather the same has been proved by claimant through concerned quarters. As such, the claimant is entitled to a sum of Rs.14,000/- on account of transportation charges.” (Emphasis supplied)

7. Perusal of the above findings shows that it has been clearly recorded by the learned Tribunal that there was nothing on record to indicate that the appellant had sustained any permanent disability. It has been submitted on behalf of the appellant that 40% permanent disability suffered by the appellant is borne out from Exhibit P124 which has been duly proven by PW2. PW2 is Mamta Sharma, Computer Operator, Civil Hospital, Kharar. Clearly, therefore, no doctor has been examined by the appellant to prove the alleged

disability/disability certificate. Accordingly, I find no ground is made out to interfere in the findings as recorded by the learned Tribunal in respect of the alleged disability suffered by the appellant.

8. As regards argument of learned counsel for the appellant regarding income, findings of learned Tribunal in respect of the same are contained in para 12 of the impugned Award and relevant part of the same is reproduced hereinbelow:-

“...The claimant has alleged that he was doing agricultural work and he was also running dairy farm, from which he used to earn Rs.30,000/- per month. But no cogent and convincing evidence has been led by the claimant with regard to the agriculture work and running of any dairy farm and his income. Even, during the course of cross-examination of the claimant, it is emerging that he was not having any document with regard to his avocation as agriculturist and dairy farming or monthly income. So he deserves no compensation pertaining to his said profession....” (emphasis supplied)

9. Learned counsel for the appellant is unable to show anything whatsoever to controvert the above said findings, let alone disprove the same.

10. Further perusal of the impugned Award shows that learned Tribunal has granted compensation in the following manner:

Heads	Amounts
Medical bill amount	Rs.2,15,300/-
Pain & suffering	Rs.30,000/-
Attendant charges during the period of hospitalisation and subsequent period of recovery	Rs.10,000/-
Special diet/extra nourishment	Rs.5,000/-
Transportation charges	Rs.14,000/-
Total	Rs.2,74,300/-

11. I find the above said compensation to be just and fair in the facts and circumstances of the case. I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed.**

12. Pending application(s) if any also stand(s) disposed of.

10.05.2023
Sunena

(Nidhi Gupta)
Judge

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