IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9967-2014
Reserved on:- 02.08.2023
Pronounced on:- 13.09.2023

Kamaldeep Singh

...Appellant

Versus

Gurpreet Singh & others

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Vipul, Advocate
for the appellant/claimant.

Mr. D.K. Prajapati, Advocate
for respondent No. 3 – Insurance Company.

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AMARJOT BHATTI, J.

1. The appellant/claimant – Kamaldeep Singh has filed present appeal against impugned Award dated 09.10.2014 passed by learned Motor Accident Claims Tribunal, Chandigarh vide which the appellant/claimant has been awarded compensation of Rs. 40,197/- alongwith interest @7.50% per annum from the date of filing of petition till the date of actual realization.

2. The facts of the case are that claimant Kamaldeep Singh filed claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation of Rs. 20,00,000/- alongwith interest @12% per annum on account of injuries suffered by him in a motor vehicular accident on 15.01.2013. He was a student and was pursuing B.Tech from Sukhmani

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College Derabassi. On the fateful day of 15.01.2013, at about 10:30 A.M. the claimant Kamaldeep Singh was going from his college at Derabassi towards his house at Zirakpur on an Activa Honda Scooter. His friend Arjit was pillion rider. When they reached in front of Kaka Dhaba, near Ghaghar Bridge, Bhankarpur, a car bearing Registration No. PB-65-R-3533 which was being driven by respondent No. 1 came at a fast speed, in a rash and negligent manner from behind and struck against their scooter. As a result, the petitioner/claimant and his friend fell down on the road. The claimant suffered serious injuries. They were taken to GMCH-32, Chandigarh. On the statement of claimant, FIR No. 12 dated 16.01.2013 under Section 279, 337, 338, 427 of IPC has been registered at Police Station Dera Bassi, SAS Nagar against respondent No. 1. An amount of Rs. 1,00,000/- was spent on medical treatment. He has claimed compensation of Rs.20 lacs under various heads. Hence the claim petition.

3. The claim petition was contested by all the respondents. In the written statement filed by respondents No. 1 and 2, the alleged accident was denied. It has also been denied that the petitioner had spent a sum of Rs. 1,00,000/- on his medical treatment. Infact the petitioner had crossed the car of respondent No.1 and applied sudden breaks to his scooter. He could not control the scooter and fell down infront of the car of respondent No.1. The car even did not touch the scooter of petitioner. The petitioner has created a false and fabricated story in connivance with local police to claim accident compensation. It was prayed that the claim petition may be dismissed with costs.

4. In the written statement filed by respondent No. 3 – Insurance Company, preliminary objections regarding maintainability, non-joinder of

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necessary parties, cause of action were taken. It was submitted that the alleged accident has not taken place due to negligence of driver of car No. PB-65-R-3533. In fact, the alleged accident has occurred due to the negligence of the claimant himself. The driver of the alleged offending car was not having a valid and effective driving license at the time of alleged accident. On merits, it is submitted that the offending vehicle was being driven in contravention of the terms and conditions prescribed in the policy of insurance as well as in the Motor Vehicles Act and therefore, respondent No. 3 is not liable to pay any compensation. No intimation regarding the alleged accident was ever given to the answering respondent either by the claimant or by respondent No. 2. Therefore, the claimant is not entitled to any compensation from the answering respondent. Hence, it was prayed that the claim petition may be dismissed with costs.

5. From the pleadings of the parties, following issues were framed by the Tribunal on 24.07.2013:-

(1) Whether Sh. Kamaldeep Singh suffered injuries in an accident which took place on 15.01.2013 at about 10:30 A.M. in front of Kaka Dhaba near Ghaghar Bridge, Bhankarpur on account of rash and negligent driving of vehicle bearing No. PB-75-R-3533 by its driver? OPP

(2) Whether the claimant is entitled to any compensation on account of injuries caused to him in an accident as alleged, if so to what extent and by whom? OPP

(3) Whether the driver of offending vehicle was not holding a valid and effective driving license on the date of accident and the vehicle was being driven in violation of terms and

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conditions of the Insurance Policy? OPR3

(4) Relief.

6. In order to prove the claim petition, the petitioner/claimant himself stepped into the witness box as PW-1 and deposed through duly sworn affidavit Ex.PW1/A. He further examined Dr. Ravi Kumar Preenja, Assistant Professor, Dept. of Orthopedics, GMCH, Sector 32, Chandigarh. Thereafter, learned counsel for the petitioner/claimant closed the evidence on behalf of the petitioner.

7. In order to rebut the case of the petitioner/claimant, respondent No. 1 himself stepped into the witness box as RW-1 and deposed through his duly sworn affidavit Ex.RW1/A. Thereafter, learned counsel for respondents No. 1 and 2 closed the evidence. Further, no evidence was produced by respondent No. 3 – Insurance Company and learned counsel for respondent No. 3 closed the oral evidence.

8. After hearing the arguments advanced by learned counsel for the parties, the claim petition filed by the petitioner/claimant was allowed by passing impugned Award dated 09.10.2014, as referred above. Feeling aggrieved of this Award, the present appeal has been preferred by appellant/claimant for enhancement of the compensation amount.

9. I have heard the arguments of learned counsel for the appellant/claimant as well as learned counsel representing the contesting respondent i.e. Insurance Company. Learned counsel for the appellant argued that the compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh by passing impugned Award dated 09.10.2014 is meager and inadequate. The appellant was a young boy of 19 years of age and he was student of 4th semester of B.Tech from

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Sukhmani Collage, Derabassi. In this accident, he suffered fracture of right leg and left hand and other injuries. He was admitted in Government Medical College and Hospital, Sector 32, Chandigarh on 15.01.2013 and his right leg was operated upon on 16.01.2013. Thereafter, he was discharged on 19.01.2013. He was advised physiotherapy. He was again operated upon on 23.03.2013 to remove the screw. He suffered 5% permanent disability. His professional and marriage prospects were adversely effected on account of injuries suffered by him. He had spent more than Rs. 1 lac on his treatment. He further spent Rs. 20,000/- on special diet, Rs. 15,000/- on conveyance. Despite all this, he has been granted meager amount of Rs. 5,000/- on special diet, Rs. 5,000/- for pain and suffering, Rs. 5,000/- for future medical treatment, Rs. 10,000/- for loss of education and Rs. 12,500/- for permanent disability suffered by him. Kamaldeep Singh as PW-1 stepped into the witness box to prove his version. The disability certificate Ex.P-9 is proved by examining Dr. Ravi Kumar Preenja as PW-2. It is prayed that the appellant is entitled to enhanced amount of compensation on account of injuries and permanent disability suffered by him. Therefore, the impugned Award dated 09.10.2014 may kindly be modified.

10. On the other hand, learned counsel for the insurance company pointed out that the appellant was a student. He was not earning member of the family. He has not suffered any loss of income. The disability suffered by him was only to the extent of 5% regarding lower limb for which the learned Motor Accident Claims Tribunal, Chandigarh has rightly granted compensation. The learned counsel for insurance company further referred to the examination-in-chief of Kamaldeep Singh PW-1

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where in para No. 3 of his affidavit, it is admitted that father of the appellant was a Government servant who had claimed medical reimbursement of Rs. 30,000/- approximately and the claimant was in possession of medical bills to the tune of Rs. 2697/-. Therefore, accordingly the learned Motor Accident Claims Tribunal, Chandigarh has granted compensation on account of medical expenditure. It is pointed out that the appellant cannot claim the medical bills which were already reimbursed by the Government. The compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh is fair and reasonable. Therefore, the Award dated 09.10.2014 passed by the learned Motor Accident Claims Tribunal, Chandigarh does not require any interference.

11. I have considered the arguments advanced before me and I have also gone through the record carefully. The present appeal is pertaining only to the quantum of compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh vide Award dated 09.10.2014. In this case, Kamaldeep Singh PW-1 was going on his Activa Honda Scooter on 15.01.2013 for going to his house in Zirakpur from his college at Derabassi. At about 10:30 a.m. in front of Kaka Dhabha, near Ghaghar Bridge, Bhankarpur, he was hit by the offending car bearing registration No. PB-65-R-3533 from behind. In this accident, he suffered injuries and was shifted to GMCH-32, Chandigarh. As per medical record, he suffered fracture of right leg and left hand and other injuries on his body. It is not disputed that he was operated upon and remained admitted in the hospital. It is also admitted that father of the appellant was Government employee, therefore, the bills of medical expenditure were reimbursed by the department and the appellant could produce bills Ex.P-

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12 to Ex.P-23 which are to the tune of Rs. 2697/-. Therefore, the medical expenditure incurred by the appellant/claimant and his family was rightly considered and he was granted compensation under this head to the tune of Rs. 2697/-.

The appellant has examined Dr. Ravi Kumar Preenja as PW-2 who has proved the disability certificate Ex.P-9, according to which it was a case of closed fracture both bone leg right middle 1/3rd with pain in right leg. It was found a case of permanent disability by 5% relating to the right lower limb. Regarding the permanent disability suffered by the appellant, the learned Motor Accident Claims Tribunal, Chandigarh has granted compensation to the tune of Rs. 12,500/-. In this case, the appellant was student of 4th semester B.Tech. He was to complete his degree in another two years. Because of this accident, he must have remained bed ridden and his education must have suffered adversely. The disability suffered by him is also going to effect his professional life as well as future marriage life. During the course of treatment, he must have suffered pain and agony. Therefore, considering all the aspects of the present case, the compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh under the head of compensation for permanent disability as well as for pain and suffering is towards the lower side. No doubt the appellant was a student, therefore, considering that he was getting technical education, his monthly income is assumed as Rs. 6,000/- and annual income as Rs. 48,000/-. He suffered 5% permanent disability at a very young age which he is to bear throughout his life. Therefore, by taking functional disability as 5% and by applying the multiplier of 18, the quantum of compensation for permanent disability suffered by him comes

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out to be Rs. 43,200/-.

Therefore, considering the facts of the present case, the compensation awarded by the Tribunal vide Award dated 09.10.2014 and the compensation awarded in this case under various heads is as under :-

SR. No.	Head	Enhanced amount of compensation (Rs.)	Awarded by Tribunal (Rs.)
1.	Loss of future earnings on account of permanent disability (5%)	43,200/-	12,500/-
2.	Medical expenditure	2697/-	2697/-
3.	Pain and suffering	25,000/-	5,000/-
4.	Future professional and adverse effect on professional and marriage prospects	25,000/-	-
5.	Loss of Education	10,000/-	10,000/-
6.	Special Diet	5,000/-	5,000/-
7.	Expenditure on Transportation	5,000/-	-
8.	Future medical expenditure	5,000/-	5,000/-
	TOTAL	1,20,897/-	40,197/-
Difference of compensation Rs. 80,700/- (Rs. 1,20,897/- - Rs. 40,197/-)			

12. In view of the aforesaid facts, the appellant is entitled to receive a sum of Rs. 1,20,897/- as compensation and after deduction of Rs. 40,197/-, if already deposited, the balance amount of Rs. 80,700/- i.e. enhanced amount of compensation, which the appellant is entitled to receive as per the terms of Award dated 09.10.2014 alongwith interest @7% per annum from the date of filing of present appeal till realization of the amount.

Resultantly, the findings given by the learned Motor Accident Claims Tribunal, Ludhiana while passing impugned Award dated 09.10.2014 are modified regarding quantum of compensation by accepting

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the present appeal.

The photocopy of record received from the Tribunal be sent back to the concerned quarter.

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

13.09.2023 **(AMARJOT BHATTI)**
lalit **JUDGE**

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

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