

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2379-2007 (O&M)
Date of Decision: May 03, 2024

Usman
... Appellant

Versus

Sahabu and others
... Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Digvijay, Advocate,
for the appellant.

Mr.Suvir Dewan, Advocate
for respondent No.3-insurance company.

ARCHANA PURI, J.

The present appeal has been filed by appellant-claimant Usman, thereby, questioning the adequacy of the compensation granted by Motor Accident Claims Tribunal, on account of injuries sustained by him, in a motor vehicular accident.

The facts germane, to be noticed, are as follows:-

That, on 05.10.2023, claimant Usman was proceeding from Nuh to Ferozepur Jhirka, while travelling in Jeep bearing registration No.HR-35A-1078, which was driven by respondent No.2-Zafruddin, at a fast speed, in rash and negligent manner. When the Jeep reached near Sikanderabad, the driver lost control over the Jeep and thus, it rolled over and many occupants suffered injuries.

On appraisal of the evidence, adduced on record, learned Tribunal had reached the conclusion that accident was caused due to rash and negligent driving of the aforesaid Jeep by respondent No.2, as a result whereof, the appellant-claimant had sustained injuries.

Be it noted that, none of the respondents, who were made liable to pay the compensation, as such, have filed any appeal, to assail the findings, so recorded. It is only the appellant-claimant, who is seeking enhancement of compensation.

The appellant-claimant himself stepped into witness box and has deposed about the injuries sustained by him in the accident in question. Furthermore also, appellant-claimant examined PW-1 Suresh Kumar, Record Keeper, Safdarjang Hospital, who proved extract of register Ex.P1, qua claimant having received treatment, as outdoor patient and also proved OPD Card Ex.P2. Furthermore, PW-2 Atul, Pharmacist proved casualty record Ex.P3. Even, in the affidavit Ex.P5, the claimant had not stated a word about having received indoor treatment. No treatment having undergone by him has been produced on record.

It has been rightly observed by learned Tribunal about the appellant-claimant to have mentioned about having received treatment from Quack and having spent Rs.50,000/- on his treatment. However, no evidence qua any such amount incurred, has been brought on record.

In the light of the aforesaid, however, it is pertinent to mention that PW-4 Dr.Subhash Sidhu has been examined, who deposed about the having assessed the disability, on account of 'traumatic fracture, union left tibia with mild moderate restrictions left knee, movements and shortening

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one inch left leg’ and proved disability certificate Ex.P4, which also states about traumatic fracture, union left tibia with mild moderate restriction left knee, shortening 1”. However, PW-4, while facing cross-examination has also stated that extent of permanent disability may be reduced to the extent of 2/3%.

Considering the same, the disability has been taken as 14/15% by learned Tribunal and thus, making some guess work, very proximate to the reality, learned Tribunal, had worked upon compensation under various heads, which, in the tabular form, is herein given:-

Expenses spent on treatment	Rs.5,000/-
Pain and suffering	Rs.10,000/-
Loss and earning capacity (disability of 15%)	Rs.30,000/-
Special diet, transportation charges etc.	Rs.5,000/-

Thus, in total, an amount of Rs.50,000/- was awarded as compensation.

Now, it is submitted by learned counsel for the appellant-claimant that the compensation, so granted, is miserably on lower side. Though, the appellant-claimant had asserted himself to be working as an agriculturist and asserted about his earnings to be Rs.5,000/- per month, but however, no evidence, as such, has come on record. Since, no satisfactory evidence, with regard to indulgence of the injured-claimant in agriculture has been led, in the given circumstances, the best recourse is to assess the earnings of the injured-claimant, as per Minimum Wages, existing at the relevant time. Considering the same, the compensation granted by learned Tribunal, does fall on lower side. At the relevant time, Rs.2197.84 per

month, was the minimum wages for the unskilled worker, which is now rounded off as Rs.2200/- per month.

Very true, as pointed by learned counsel for the insurance company that no evidence, as such, is coming on record, about the injured-claimant to have undergone indoor treatment. Also, it has been appropriately pointed out about the appellant-claimant to have not spent on his treatment. While facing cross-examination, the appellant-claimant had admitted a suggestion to be correct that his treatment, at the Government Hospital was free of charge. Even, PW-6 Dr.Rajesh Kumar, SMO, CHC, Kanina, has also stated that the treatment at the hospital was free of charge. But however, from the disability certificate, as well as the OPD Card, which have been proved on record, it stands established that the appellant-claimant had suffered head injury and also fracture thigh and fracture lower leg (R).

In the given circumstances, injuries were definitely caused to the appellant-claimant and injuries, co-relate to the detail, as mentioned in the disability certificate Ex.P4, in which, the disability has been assessed as 18%. The doctor, who had examined the claimant for assessment of disability, deposed in cross-examination that there were chances of 2/3% of the reduction of extent of disability and considering the same, the disability of the appellant-claimant is taken as 10%.

Now, considering the same, as already observed aforesaid, the earnings of the appellant-claimant are taken Rs.2200/- per month, to which, addition of 40% is made, on the count of 'future prospects', i.e. to the extent of Rs.880/- and the total earnings comes to be Rs.3080/- per month, annual whereof, comes to be Rs.36,960/-.

Considering the age of the appellant-claimant to be 30 years, the appropriate and the suitable multiplier to be applied is ‘17’. While considering the 10% disability to be there, the loss of earnings is worked upon as **Rs.36960x17x10/100=Rs.62,832/-**.

Apart from above, on account of disability, the appellant-claimant may not have been able to pursue his source of livelihood for some period of time and must have also been put on special diet. Also, the appellant-claimant, ought to have been looked after by some attendant, for some period of time, on account of having suffered fracture. Obviously, on account of trauma, he must have also undergone some pain and suffering. Considering all these aspects, besides the aforesaid amount, a lumpsum amount of Rs.25,000/- is granted and thus, the total compensation awarded comes to be **Rs.62832+25000=Rs.87,832/-**.

As such, the compensation, so awarded by learned Tribunal, stands enhanced from **Rs.50,000/-** to **Rs.87,832/-**.

On the enhanced amount of the compensation i.e. **Rs.87,832-50,000=Rs.37,832/-**, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The residue terms of the impugned Award, shall remain the same.

With the above observations, the present appeal stands allowed.

May 03, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No