(2013) 07 P&H CK 0827

High Court Of Punjab And Haryana At Chandigarh

Case No: F.A.O. No. 6512 of 2010 (O and M)

Sat Pal		APPELLANT
	Vs	
Basant Kumar and Others		RESPONDENT

Date of Decision: July 31, 2013

Hon'ble Judges: Vijender Singh Malik, J

Bench: Single Bench

Advocate: Krishan Singh, for the Appellant; Ravinder Jain, Advocate for Respondent No. 3-Insurance Company, for the Respondent

Final Decision: Allowed

Judgement

Vijender Singh Malik, J.

This is claimant"s appeal for enhancement of compensation awarded to him by learned Motor Accidents Claims Tribunal, Yamuna Nagar (for short, "the Tribunal") vide award dated 22.3.2010 in a sum of Rs. 1,43,542/- with interest at the rate of 7.5% from the date of filing of the claim petition till the date of realization thereof, for the injuries suffered by him in a roadside accident that took place on 4.9.2007. On 4.9.2007, the claimant was going from Khizrabad to Tajewala on his motorcycle bearing registration No. HR-02J-6486, driving it at a normal speed and on his correct left side of the road. At about 2.30 PM, when he was near the gate of Grain Market, Khizrabad, a Tata Indica car bearing registration No. DL-3CW-8691 driven by respondent No. 1 in a rash and negligent manner came from the other side and coming to the wrong side, it had struck against the motorcycle of the claimant who suffered injuries. He was taken to the hospital of Dr. Deepan Jain, Sector 17, Jagadhri where he became fit to make statement on 8.9.2007 and the police recorded his statement on that day on the basis of which an FIR was recorded. He remained hospitalized with Dr. Deepan Jain from 4.9.2007 to 21.9.2007. He was operated upon twice and a rod was inserted in his left leg and a plate was fitted in the thigh of the same leg. Thereafter he remained under treatment of Dr. Deepan Jain as an outdoor patient. A sum of Rs. 1,50,000/- was spent in the treatment. A

sum of Rs. 10,000/- was claimed to have been spent on special diet. He was 46 years of age at the time of accident and he was employed as P-mate in H.P.G.C. Bhur Kalan and was getting salary of Rs. 8,500/- per month.

2. The respondents have controverted the averments of the claim petition. They have denied the accident to have occurred in the manner alleged by the claimant. The claimant is also denied to be entitled to any compensation.

3. Learned Tribunal has found a sum of Rs. 61,292/- as spent by the claimant in his treatment and has allowed a sum of Rs. 62,000/- on account of the same. For pain and suffering, he has allowed a sum of Rs. 20,000/-. For loss of income due to permanent disability of 25%, he has assessed a sum of Rs. 50,000/- as compensation and assessed a sum of Rs. 3,242/- as compensation for the loss of income during treatment. He has further allowed a sum of Rs. 4,500/- as compensation for special diet, a sum of Rs. 800/- for attendant charges and a sum of Rs. 3,000/- for transportation charges. In all, learned Tribunal has assessed a sum of Rs. 1,43,542/- as compensation in favour of the claimant.

4. Learned counsel for the appellant has contended that the case is of fracture of left femur as also both bones of the same leg on account of which the claimant suffered permanent disability to the extent of 25%. According to him, he was hospitalized for 17 days and was operated upon twice during this period. He has further submitted that thereafter the claimant came in the OPD of the said hospital and spent a lot of money in his treatment. He has submitted that the Tribunal has not assessed adequate amount in the name of expenses on treatment. According to him, a sum of Rs. 61,292/- was proved by production of the bills as spent in his treatment and a petty sum of Rs. 708/- is added to the said amount to assess Rs. 62,000/- as compensation for the expenses on treatment. He has further submitted that learned Tribunal has not assessed proper sum for permanent disability or loss of income during treatment, special diet, transportation charges and loss of future enjoyment of life.

5. Learned counsel for respondent No. 3 has submitted, on the other hand, that learned Tribunal has assessed adequate amount under all the possible heads and has awarded just and fair compensation to the claimant. According to him, no head has been left untouched by the Tribunal in assessing the compensation.

6. A sum of Rs. 61,292/- was proved by the claimant to have been spent in his treatment. In cases of accident trauma, some amount is spent without obtaining bills and it will not be sufficient to compensate the injured by adding a sum of Rs. 708/- to the amount proved by way of bills.

7. In these circumstances, I assess a sum of Rs. 65,000/- as compensation for the expenses incurred by the appellant on his treatment.

8. However, I do not find any reason to differ from the Tribunal in the amount assessed for pain and suffering. Learned Tribunal has found a sum of Rs. 20,000/- as just

compensation for pain and suffering and I find it to be adequate. However, I may differ from the Tribunal in the amount assessed in the name of loss of income due to permanent disability. The claimant is of the age of 46 years. He has suffered sub-trochantric fracture left femur with fracture both bones of left leg. This disability would not only decrease the earning capacity of the claimant, but would also reduce the enjoyment of his life. Therefore, I assess a sum of Rs. 60,000/- as compensation for loss of future income and a sum of Rs. 30,000/- as compensation for loss of future enjoyment of life. In case of double fracture of left leg, the victim would have to remain immobile for not less than three months. The compensation assessed in a sum of Rs. 3,242/- for loss of income during treatment appears to be on a very lower side. In this regard, I assess a sum of Rs. 10,000/- for loss of income during treatment.

9. Now, compensation is left to be assessed under the heads of special diet and transportation and attendant charges. Under these heads, I find a sum of Rs. 15,000/- to be adequate compensation to the claimant. Therefore, I find the claimant-appellant to be entitled to Rs. 2,00,000/- as compensation for the injuries he suffered on account of which he suffered disability of 25%. Consequently, the appeal succeeds and is allowed enhancing the compensation from Rs. 1,43,542/- to Rs. 2,00,000/- which shall be payable to the appellant by the respondents with interest and in the manner as allowed by learned Tribunal in the impugned award.