

(2014) 07 P&H CK 0771

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 3147 of 2010

Rakesh Kumar Sharma

APPELLANT

Vs

Karamjit Singh

RESPONDENT

Date of Decision: July 16, 2014

Hon'ble Judges: Navita Singh, J

Bench: Single Bench

Advocate: S.K. Sharma, Advocate for N.D. Achint, Advocate for the Appellant; Jai Sukhdeep Khattar, Advocate for Deepak Sharma, Advocate and Pardeep Kumar, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Navita Singh, J.

Learned counsel for the parties have been heard.

2. This appeal is preferred against the award dated 1.10.2008 passed by Motor Accident Claims Tribunal (Tribunal for short), Ambala. The appellant was granted compensation to the tune of Rs. 35,885/- for the injuries sustained by him in a road accident on 24.8.2007.

3. The case of the appellant was that on 24.8.2007, he was coming from Shazadpur to Ambala on motor-cycle bearing No. HR-01P-6810 and was driving on the correct side of the road. The time was 9.30 p.m. When he reached near Mandhor bus stop, his motor-cycle struck against a "tipper" truck, which was standing with its face towards Ambala in the middle of the road without any parking light or any other indication. The appellant fell down and received grievous injuries including fracture of the jaw. The accident took place due to negligence of respondent No. 1, who had parked the vehicle at night in the middle of the road without any indication. The appellant was first taken to Civil Hospital, Ambala, from where he was referred to PGI and then back to Civil Hospital, Ambala. He was then taken to M.M. College of Dental Science and Research, Mullana and underwent surgery on 30.8.2007 and was

discharged on 2.9.2007. His age at the relevant time was 29 years and he was working with the Haryana Police. He spent the huge amount on his treatment and was also subjected to loss of salary.

4. Respondents No. 1 and 2 filed a joint reply denying the accident but all the same stating that one person was involved in an accident on 24.8.2007 but they did not know who the person was. According to them, the person was wearing a helmet and was taking on his mobile phone while driving the motorcycle at a high speed. The motor-cycle had struck against a stone lying on the road and appellant lost control. The truck was standing on one side of the road with parking lights on. Respondent No. 1 was changing the wheel of the truck when he saw the appellant falling on the road. He had rather helped the injured and got him admitted in the hospital.

5. Respondent No. 3 i.e. Insurance Company took up a defence that the accident took place on account of sole negligence of the appellant and it was further pleaded that even if there was any accident as alleged, the company was not liable as the driver of the offending vehicle did not hold a valid driving licence and other documents.

6. The Tribunal framed the following issues:-

1. Whether the claimant sustained injuries in a motor vehicular accident which took place on 24.8.2007 on account of rash and negligent driving of vehicle No. HR-10GA-0076 by respondent No. 1? OPP

2. If issue No. 1 is proved, to what amount of compensation the claimant is entitled to and from whom? OPP

3. Whether there is a violation of the terms and conditions of the insurance policy. If so, its effect? OPR

4. Relief.

7. Learned counsel for the appellant argued that an amount of Rs. 35,885/- was granted as compensation to the appellant, which was absolutely not adequate as compared to the nature of injuries suffered and the loss of income which had incurred as a result of accident.

8. Learned counsel for the Insurance Company argued that the appellant was hospitalized only for one day immediately after the accident and then for two days at Mullana. Sufficient amount had been awarded to him by the Tribunal under various heads numbered as 1 to 5 in para 16 of the award. The amount awarded by the Tribunal under various is reproduced as under:-

9. Learned counsel for the appellant could not point out anything lacking in the award and failed to convince the court as to under which of the heads the amount awarded was insufficient. He agreed that medical expenses and hospital charges could be awarded only as per the bills etc. produced by the appellant. He also

agreed that the period of hospitalization was short and nothing was required to be awarded for attendant. An amount of Rs. 15,000/- was awarded for pain and suffering. Actual charges for medical expenses were given. For loss of income for 10 days, he was adequately compensated though there is nothing to prove on record that medical leave granted to the appellant was without pay. He was also compensated for special diet. More than sufficient amount was granted for transportation as well.

10. The award, thus, does not call for interference on any count as the Tribunal had adequately compensated the appellant. The appeal is dismissed.