

(2017) 02 RAJ CK 0052
RAJASTHAN HIGH COURT
Case No: 1583 of 2014

Mahipal Singh S/o
Madan Singh

APPELLANT

Vs

Girdhar Singh Dahiya
S/o Jagat Singh Dahiya

RESPONDENT

Date of Decision: Feb. 10, 2017

Hon'ble Judges: Arun Bhansali

Bench: SINGLE BENCH

Advocate: Surendra Surana, Sunil Bhandari

Final Decision: Allowed

Judgement

1. This appeal is directed against judgment and award dated 11.07.2014 passed by Motor Accident Claims Tribunal, Abu Road, District Sirohi ("the Tribunal"), whereby, the appellant has been awarded a sum of Rs. 2,000/- only as compensation for the injuries suffered by him.

2. The application was filed with the averments that the claimant was travelling in the Jeep when the same collided with the insured vehicle resulting in injuries to him, whereby, he suffered fracture involving right frontal bone. It was claimed that the appellant-claimant had to undergo treatment for a long time that he has suffered permanent disablement.

3. Based on the averments, compensation to the tune of Rs. 4,30,000/- was claimed.

4. The application was opposed by the non-claimants. On behalf of the claimants, the appellant himself was examined and he exhibited certain documents.

5. The Tribunal after hearing the parties came to the conclusion that though the appellant had suffered injury, however, as the medical bills in original were not produced, the same indicated that the amount of medical expenses has been recovered from elsewhere and based on that rejected the application by awarding a sum of Rs. 2,000/- towards pain and suffering.

6. It is submitted by learned counsel for the appellant that the Tribunal committed error in coming to the conclusion that the amount of medical expenses was recovered from somewhere else though there was no such evidence available on record. Further submissions were made that though the Tribunal came to the conclusion that the medical expenses were recovered, the compensation under other heads like for the fracture suffered by him and other medical related expenses like diet etc. were not awarded and, therefore, the award impugned deserves to be set aside/modified.

7. Learned counsel for the respondent supported the award impugned. It was submitted that the Tribunal was justified in not awarding any amount towards the medical expenses and that the appellant has failed to make out any case of permanent disablement so as to claim the amount of compensation.

8. I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

9. A bare perusal of the memo of appeal filed by the appellant indicates that despite a specific finding by the Tribunal regarding the appellant having recovered the medical expenses from somewhere else, based on non-production of original documents, neither the said finding has been questioned as perverse nor any documents have been produced to counter the said finding of the Tribunal. In view thereof, the finding of the Tribunal in this regard cannot be questioned.

10. So far as the non-award of amount towards the fracture and pain & suffering etc. suffered by the appellant is concerned, though there is no medical report available on record except for a C.T. Scan, wherein, there is a reference of fracture on right frontal bone, based on the said injury indicated and the fact that the appellant remained hospitalized for two days, a further lump sum amount of Rs. 10,000/- is awarded to the appellant.

11. Consequently, the appeal is partly allowed. The award impugned is modified to the extent that the appellant would be entitled to further compensation to the tune of Rs. 10,000/- alongwith interest @ 6% per annum from the date of application i.e. 14.08.2008. The amount be paid to the appellant in his saving bank account.