
(2019) 02 P&H CK 0325

In the Punjab And Haryana At Chandigarh

Case No : First Appeal Order Nio. 347 Of 2013(O&M)

Gurmeet Singh

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 15-02-2019

Acts Referred:

Indian Penal Code, 1860 — Section 279
Motor Vehicles Act — Section 166

Citation : (2019) 02 P&H CK 0325

Hon'ble Judges : H.S.Madaan, J

Bench : Single Bench

Advocate : Jagtar Kureel, Rukhsaar Dhindsa

Final Decision : Partly Allowed

Judgement

H.S. Madaan, J

Briefly stated, facts of the case are that on 7.9.2009 at about 4:30 p.m., petitioner/claimant Gurmeet Singh, a student of BCA IIIrd year was coming from the side of Industrial Training Institute going towards Vishvakarma Gate side through divider constructed on G.T. Road, in the meanwhile, a bus bearing registration No.PB05M-9622 being driven by its driver Baldev Singh at a very fast speed without blowing horn in a rash and negligent manner came and struck against the petitioner/claimant, resultantly, he fell down on the metalled road and received multiple injuries; that after the accident, respondent No.2 - Baldev Singh sped away the bus from the spot; that Sh.Parminder Singh son of Jarnail Singh, resident of Bhagat Singh Nagar, Moga, who had seen the mishap, removed the injured/claimant to Civil Hospital, Moga from where he was referred to Dayanand Medical College, Ludhiana; that an FIR No.154 dated 10.9.2009 for the offence under Section 279 IPC was registered at Police Station City, Moga; that the petitioner/claimant remained admitted in Dayanand Medical College Hospital, Ludhiana from 7.9.2009 to 16.10.2009, 18.1.2010 to 27.1.2010.

Petitioner/claimant Gurmeet Singh had filed a claim petition under Section 166 of the Motor Vehicles Act against respondents i.e. respondent No.1 - State of Punjab, Department of Roadways, Punjab, Chandigarh through its Secretary, respondent No.2 - Baldev Singh driver of bus bearing registration No. PB05M-9622 (hereinafter referred to as the offending vehicle), respondent No.3 - Managing Director (Pun Bus) Punjab State Bus Stand Management, Punjab, Chandigarh and respondent No.4 Punjab Roadways, Ferozepur through its General Manager - owners of the offending vehicle, claiming compensation to the tune of Rs.6 lacs on account of suffering injuries in the road side accident.

On notice, respondents No.1, 3 and 4 appeared and filed a joint written statement raising preliminary objections that the claim petition is bad for non-joinder and misjoinder of necessary parties. On merits, they denied that the bus in question had caused the accident though admitting that on the day of accident, Baldev Singh - respondent No.2 was on duty on the bus. Refuting material assertions of the claim petition, such respondents prayed for dismissal of the same.

Respondent No.2 in his separate written statement raised preliminary objection with regard to maintainability of the claim petition.

On merits, he also denied the factum of accident though submitting that on 7.9.2009, he was coming from Ludhiana to Moga on bus having registration No.PB05M-9622; that he was having a valid driving licence; that when the bus reached near ITI, Moga then a car overtook the bus and struck against the claimant, as such, the respondent stopped the bus as a humanitarian gesture; that several passengers including Amrik Singh son of Banta Singh, resident Eshe Hakewala and Jagtar Singh son of Kartar Singh resident of Wahge Wala, District Ferozepur were travelling in that bus; that subsequently the claimant got registered a false FIR against the respondent No.2 and filed a false claim petition. This respondent also prayed for dismissal of the claim petition in question.

On the pleadings of the parties, following issues were framed:

1. Whether the accident has been caused by respondent No.2 by driving the bus bearing registration No.PB05M-9622 rashly and negligently as a result of which claimant received injuries? OPP.
2. Whether the claimant is entitled to compensation, if so, to what extent and from whom? OPP.
3. Whether the claim petition is bad for non joinder and mis joinder of necessary parties? OPR.
4. Relief.

Both the parties led evidence in support of their respective claims.

In order to prove his case, the petitioner/claimant got recorded his statement as

PW3 besides examining Parminder Singh as PW1, Anand Singh Rawat as PW2, R.S. Pandey, Supervisor Dutta Brothers, Drug Store, DMC Hospital, Ludhiana as PW3.

On the other hand, respondents have examined respondent No.2 Baldev Singh as RW1, Jagtar Singh as RW2 and Gursewak Singh as RW3.

After hearing arguments, the Tribunal decided issue No.1 in favour of claimant and against the respondents, issue No.2 in favour of the claimant and against the respondents, issue No.3 against the respondent No.3. Resultantly while allowing the petition vide award dated 8.5.2012, the Tribunal awarded compensation of Rs.2,60,000/- along with interest @ 9% per annum from the date of filing of the petition till realization, for which the respondents were jointly and severally liable, besides cost of the petition to the claimant.

Feeling that the compensation awarded to him was on lower side, the claimant has filed the present appeal, notice of which was given to respondents, who put in appearance through counsel. However, subsequently there was no representation on behalf of respondent No.2.

I have heard learned counsel for the appellant and learned State counsel representing respondents No.1, 3 and 4 besides going through the record.

The main grouse of learned counsel for the appellant was that the the Tribunal has slashed amount from the total amount worked out on the basis of documentary evidence towards medical expenses of the claimant; that PW2 Anand Singh Rawat, Clerk, DMC Ludhiana had proved medical bills Ex.P2 to Ex.P35 and receipts for purchase of blood as Ex.P36 to Ex.P39; PW4 Sh.R.S. Pandey had proved medical bills Ex.P42 to Ex.P200; that the Tribunal arbitrarily assessed the cost of treatment of claimant to be Rs.2,50,000/- when the amount was more than that, precisng Rs.2,98,962/-, without assigning any reason. The total amount was not given to the claimant.

Learned counsel for the appellant has referred to judgment passed by Coordinate Bench of this Court in FAO-6512-2011 titled Manmmohan Singh Versus Sukhwinder Singh @ Sukha and others wherein in such an eventuality where the injured had suffered compound fracture of right leg etc., which led to 30% permanent disability as per disability certificate, the compensation had been enhanced. In support of his contentions, he further referred to authorities Rakesh Versus Parkash Chand and others, 2018(3) PLR 222 and Anant Son of Sidheshwar Dukre Versus Pratap son of Zhamnnappa Lamzane & Another, 2018(4) RCR (Civil) 124 .

The Tribunal without mentioning a word doubting the genuineness of the bills for the remaining amount of Rs.48,962/- has slashed that amount from the total medical bills amount and the same cannot stand judicial scrutiny and the amount of Rs.2,50,000/- granted by the Tribunal towards medical expenses is enhanced to Rs.3 lacs since the amount actually spent comes out to Rs.2,98,962/- and as

is a matter of common knowledge that it is very difficult to have all the medical bills, receipts secured at home. Some of the bills/receipts get lost whereas some times the medicines etc. are purchased in hurry without asking for issuance of bill/receipt. Therefore, I deem it proper and appropriate to award a sum of Rs.3 lacs of the petitioner/claimant towards medical expenses.

The period of hospitalization of claimant is said to be 40 days. Though the claimant has neither alleged nor proved any permanent disability on any part of his body, the Tribunal has awarded very meagre amount to the claimant under the head of pain and suffering and for special diet, which is to the extent of Rs.5,000/- each. The amounts awarded are on lower side and are enhanced to Rs.25,000/- for pain and suffering and Rs.20,000/- towards special diet and nursing.

No amount has been awarded under the head transportation charges. Keeping in view the period of hospitalization of the injured/claimant to be 40 days, considering that his family members etc. would have been spending money in coming to hospital and going therefrom, a sum of Rs.20,000/- is awarded to the claimant in that regard.

No amount has been awarded towards the efforts of attendant. A person is required to look after an injured admitted in the hospital and towards his services, no amount has been awarded. I find it proper and appropriate to award a sum of Rs.20,000/- to the injured on that account.

The total compensation comes out to Rs.3,85,000/-.

The Tribunal has awarded a total sum of Rs.2,60,000/- as compensation along with interest @ 9% per annum from the date of filing of the claim petition till realization.

In that way, the enhanced amount comes to Rs.1,25,000/-(3,85,000 - 2,60,000). The appellant/claimant shall be entitled to recover the enhanced amount from respondents jointly and severally with interest at the rate of 7.5% per annum from the date of filing appeal till actual payment.

With such modification, the appeal is allowed partly.