
(2010) 11 P&H CK 0041
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 639 of 2007 (O and M)

Surender Singh

APPELLANT

Vs

Parmod Kumar alias Vinod and Others

RESPONDENT

Date of Decision : 10-11-2010

Acts Referred:

Citation : (2011) 162 PLR 192 : (2011) 3 TAC 193

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The Appellant-claimant has filed the present appeal against the award dated 26.07.2007 passed by the MACT, Karnal by which compensation amounting to Rs. 1,40,000/- on account of injuries sustained by him in the road side accident has been granted to him under various heads. Dissatisfied with the award, the present appeal has been filed. The learned Counsel for the Appellant has contended that the learned Tribunal has not appreciated the evidence produced by the Appellant-claimant properly that the Appellant-claimant has remained bed-ridden for about four months and nothing under the head of loss of income has been granted by the Tribunal. It is his further contention that he has 30% disability, Appellant-claimant literally could not do his work properly and this factum has not been appreciated by the learned Tribunal.

2. It is a case where the Appellant-claimant had been under treatment for sufficiently long time and during this period, he had remained bed-ridden. Learned Tribunal has granted an amount of Rs. 70,000/- under the head of medical expenses; Rs. 60,000/- on account of 30% disability. As the Appellant-claimant had remained admitted in hospital for sufficient long time and the doctor must have prescribed him special diet and some attendant must be their during this period to look after the claimant-Appellant.

3. Any claim for injuries comprises of two broad heads: pecuniary and non-

pecuniary. In respect of pecuniary heads, the claimant is expected to produce fairly accurate details, so that the Tribunal is in a position to assess the compensation on a sound basis. For non-pecuniary heads, a certain approximation could be made but even there it shall become necessary to adopt some yardstick that allows for consistency in approach.

4. While providing for loss of income, medical expenses, attendant charges, transportation, special diet, there ought to be desirably some modicum of oral or documentary evidence. Tribunals and Courts are prone to arbitrary appraisals, if appropriate evidence is not led. The claimant has produced the hospital bills during the period of surgery and admittance as an inpatient, as well as medical bills for purchase of medicines. On the basis of medical bills, the Tribunal has awarded Rs. 70,000/-. I shall retain the same. The doctor has given evidence that an operation is required to be performed in future for removal of implants. I shall provide for Rs. 20,000/- for future medical expenses. He has remained in the hospital from 10.02.2004 and discharged on 20.02.2004. He has had multiple fractures on his both legs and right hand. I will provide to him Rs. 1,250/- for attendant charges and Rs. 2,500/- for special diet. I shall provide for loss of income during treatment at Rs. 10,000/-. I shall provide another Rs. 2,500/- for transportation. The doctor has given evidence that physio therapy will be required to be given. I shall provide for Rs. 5,000/- towards therapists charges.

5. The evidence through doctor is that the claimant had fractures of both bones of left leg, fracture shaft radius right fracture dislocation of ankle joint fracture of tibial condyle on right side, with multiple fracture of hands. According to the doctor, the fractures were fixed with implants. I will assess Rs. 7,500/- for each fracture towards pain and suffering and Rs. 10,000/- for surgical injury and pain. For four fractures and for pain and inconvenience for surgical implants, I shall therefore provide for Rs. $7,500 \times 4 =$ Rs. 20,000/- + Rs. 10,000/- = Rs. 30,000/-. The disability arising out of the accident as spoken to by the doctor is, he had 30% disability due to 1 1/2 years old fracture (at the time of his evidence) with stiffness of right ankle joint with fracture of left leg bones with fractures of right radius bone with multiple fractures of right hand. The disability qua whole body was assessed at 15% and with help of physio therapy, it is bound to reduce further. No evidence was brought out that any loss of earning capacity has resulted by the injury. The Tribunal has assessed it at Rs. 60,000/-. It is already high and I will see no ground to enhance the same. A practice has gained ground to assess Rs. 2,000/- for each percentage assessed. The disability that a doctor assesses is the functional disability of each organ and the compensation must have bearing to how it impacts the earning capacity, loss of amenities of life, loss of prospects of life span. It is most desirable that appropriate medical evidence is adduced through the claimant himself and the doctor. It shall be improper for parties to leave everything to conjecture and complain at the appellate forum that the amount has not been properly assessed.

6. The compensation is tabulated as follows:

By Tribunal By the High Court

1. Loss of income - Rs. 10,000
 2. Transportation - Rs. 2,500
 3. Attendant charges - Rs. 1,250
 4. Special diet - Rs. 2,500
 5. Medical expenses - Rs. 70,000 Rs. 70,000
 6. Future medical - Rs. 20,000 expenses
 7. Pain & suffering - Rs. 10,000 Rs. 30,000
 8. Disability - Rs. 60,000 Rs. 60,000
- Rs. 1,40,000 Rs. 1,96,250/-

7. The amount of compensation is raised by Rs. 56,250/- which will bear interest at 6% per annum from the date of petition till date of payment. The Insurance Company shall be liable for the same. No costs.

The appeal shall be allowed to the above extent.