

Mukesh Vs. Anil Kumar and Others

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Court : Punjab and Haryana

Decided On : Sep-23-2013

Appellant : Mukesh

Respondent : Anil Kumar and Others

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH FAO No.2726 of 2011 (O&M). Date of Decision:

23. 9.2013. Mukesh Appellant Versus Anil Kumar and others Respondents
CORAM: HON'BLE MR. JUSTICE NAWAB SINGH Present: Mr. Ramender Chauhan, Advocate, for the appellant. Mr. Mukesh Yadav, Advocate, for respondent No.1. Mr. Rajnish Malhotra, Advocate, for the insurance company. NAWAB SINGH.J (ORAL) Mukesh, aged 29 years, suffered injuries in a th vehicular accident on August 16 , 2008 on account of rash and negligent driving of jeep bearing No.HR-34-B-0313 near village Tata Khurd. First Information Report (Exhibit P-11) was registered in Police Station Atta. He filed claim application under Section 166 of the Motor Vehicles Act before the the Motor Accident Claims Tribunal (for short the Tribunal.), Bhiwani. th 2. The Tribunal, vide Award dated January 29 , 2011, awarded compensation of Rs.2,12,228/- under the following heads:- 1. Amount actually spent on the Rs.1,22,228/ purchase of medicines & - treatment 2. Disability Rs.60,000/- 3. Pain & sufferings Rs.15,000/- Sanjay 2013.09.28 14:41 I attest to the accuracy and integrity of this document Punjab and Haryana High Court 4. Special diet Rs.10,000/- 5. Transportation Rs.5000/- 3.

Interest at the rate of 6% per annum was also awarded from the date of filing of claim application till its realization.

4. Dis-satisfied with the Award, the claimant has filed the instant appeal.

5. Learned counsel for the appellant has challenged the award on two grounds (i) that the amount of compensation for permanent disability has been awarded as Rs.60,000/- whereas it should have been Rs.76,000/- because the appellant became disabled to the extent of 38% vide Disability Certificate (Exhibit P- 40) and; (ii) that the Tribunal did not award any compensation for loss of income.

6. Dr. P.K. Anand (PW-3) deposed that the appellant had suffered comminuted fracture upper ulna, fracture of both bones of right leg, fracture of acetabular. The appellant was partner in a medical store in the name and style New Hari Medical Store at village Bapora and earning Rs.5000/- per month but no documentary evidence has been led to prove the same. It was also pleaded by the appellant that he was an agriculturist and to prove the same, he filed copy of jamabandi (Exhibit P-72) whereby it is proved that he is a co-sharer in the land mentioned in the jamabandi. Disability Certificate (Exhibit P-40) has been proved by Dr. S.S. Dhanker (PW-6).

7. Be that as it may, this Court holds the income of the deceased at Rs.5000/- per month and he must have taken 6 months in recuperating. So, a sum of Rs.30,000/- is awarded to the claimant-appellant for loss of income.

8. The appellant suffered disability to the extent of 38% as depicted in the Disability Certificate (Exhibit P-40). So, a sum of Rs.76,000/- is awarded to the appellant for the disability in view of Ram Karan Goyal vs. Sub Divisional Engineer, Mechanical and others 2008(2) RCR (Civil) 103. Sanjay 2013.09.28 14:41 I attest to the accuracy and integrity of this document Punjab and Haryana High Court FAO No.2726 of 2011 (3) 9. In view of above, Award of the Tribunal is modified to the extent that the appellant is held entitled to total compensation of Rs.2,58,228/-. Interest on the enhanced amount of Rs.46,000/- shall be paid from the date of filing claim application till the amount was deposited by the insurance company under the impugned Award at the same rate of interest as was awarded

by the Tribunal. 23.9.2013. (NAWAB SINGH) SN JUDGE Whether Refer to
reporter : Yes/No Sanjay 2013.09.28 14:41 I attest to the accuracy and integrity of
this document Punjab and Haryana High Court

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