

Anil Kumar Vs. Om Parkash and ors.

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Court : Punjab and Haryana

Decided On : Mar-01-2006

Reported in : II(2007)ACC872; (2006)144PLR344

Judge : Viney Mittal, J.

Appeal No. : Fao No. 955 of 1996

Appellant : Anil Kumar

Respondent : Om Parkash and ors.

Advocate for Def. : Karminder Singh, Adv.

Advocate for Pet/Ap. : V.K.Jain, Sr. Adv and; Divya Sharma, Adv.

Disposition : Appeal dismissed

Judgement :

Viney Mittal, J.

1. This judgment shall dispose of three first appeals being FAO No. 955 of 1996, FAO No. 956 of 1996 and FAO No. 958 of 1996 as all three appeals have been filed against the common award dated July 31,1995 passed by the Motor Accidents Claims Tribunal, Sonapat (for short, `the Tribunal').

2. The appellants are the injured claimants. They have approached this Court for enhancement of compensation.
3. An accident took place on January 22,1991. There was a head on collision between Bus No. HYU 6691 owned by the Haryana Roadways and truck No. HRD 6715 owned by Om Parkash and driven by Harbans Lal, driver, who also died in the aforesaid accident. The aforesaid truck was insured with National Insurance Company. Anil Kumar, Ashok Kumar and Raj Kumar alias Raju were three persons who were travelling in the bus and received injuries on account of the aforesaid accident. On account of injuries suffered by them, they filed a separate claim petitions before the Motor Accidents Claims Tribunal. It was specifically pleaded by the aforesaid claimants that driver of truck No. HRD/6715 was driving the aforesaid vehicle rashly and negligently and, therefore, had caused the accident in question. On account of the aforesaid fact, the passengers travelling in the bus, including the claimants, had suffered serious injuries.
4. The learned Tribunal, on the basis of evidence available on the record, found it is a fact that the accident in question had indeed taken place on account of rash and negligent driving of Harbans Lal, driver of truck No. HRD/6715. Consequently, the claimants were held entitled to receive compensation.
5. Anil Kumar, claimants claimed that he had received multiple fractures including fracture of right leg, left arm, clavicle bone, shoulder bone and four ribs. He further claimed that his teeth became shaky and his spinal cord was also injured. It was pleaded by him that he was removed from Civil Hospital, Sonapat to Sir Ganga Ram Hospital, Delhi and he had remained bed ridden for about 3-1/2 months and had spent Rs. 1 lac on his treatment. The aforesaid claimant claimed that he was doing business and on account of the aforesaid injuries, he could not attend his business and lost about Rs. 80,000/- on account of his absence from business.
6. The learned Tribunal examined the evidence led by the claimant. Anil Kumar himself appeared as PW5. He produced Dr.A.K.Kochhar as PW3, who deposed that Anil Kumar was admitted in Sir Ganga Ram Hospital on January 23, 1991 and remained under treatment upto January 31, 1991. Doctor further deposed that he (Anil Kumar) suffered fracture of shaft of left humerus and both bones of his right

leg. It was further stated by the Doctor that the injured was suspected to have received head injury and an injury on his chest with blunt weapon. The injured was also complaining of pain in his spinal cord. He was x-rayed for all the injuries. However, he was operated upon for fracture of humerus and fracture in his right leg. Chip fracture was detected in the left collar bone. Although the Doctor had further deposed that the injured Anil Kumar had suffered 15 per cent permanent disability but the learned Tribunal discarded the aforesaid opinion of the Doctor, inasmuch as, no documents were ever produced by the injured-claimant in support of the aforesaid fact. Neither any x-ray report was produced nor any other evidence was placed before the Tribunal to show that the injured had suffered any such permanent disability. Consequently, the learned Tribunal awarded a total sum of Rs. 1,19,000/- as compensation to the injured Anil Kumar. The aforesaid compensation included Rs. 40,000/- for treatment and medicines, Rs. 2,000/- for conveyance, Rs. 2,000/- for attendant, Rs. 60,000/- for pain and suffering and Rs. 15,000/- for loss of earning for three months.

7. Similarly, the case of Ashok Kumar, injured claimant was examined by the Tribunal. Ashok Kumar had claimed that he had received fracture on his face, arm and legs and almost entire right side of his body was badly injured. He was brought to Civil Hospital, Sonapat and therefrom he was referred to Sunder Lal Jain Hospital, Delhi. He further claimed that his right hand had been totally disabled and his face bone had been damaged resulting into permanent loss of senses. The claimant claimed that Rs. 70,000/- has been spent on him for medical treatment including the amount of Rs. 30,000/- paid to the hospital. In support of the aforesaid claim, Ashok Kumar himself appeared as PW6, whereas, he produced Dr.Nagesh Jain as PW1. Dr.Nagesh Jain deposed that at the time of examination, mandible of Ashok Kumar was found fractured. There was traction injury at C-8 and T1. He was also found having head injury. The Doctor further stated that the injured was operated upon. Open reduction of the fracture alongwith interossous wiring of the fracture with inter dental fixation was done. It was further deposed that on account of the traction injury, his nervous system was also affected and Ashok Kumar had lost sensation in the right forearm on account of the aforesaid injury.

Insurance Company and with their assistance have also gone through the record of the case.

13. The learned senior counsel appearing for the appellants has argued that all the injured-claimants had suffered permanent disability. It has also been argued that the compensation awarded by the Tribunal was much on the lower side and required to be enhanced.

14. However, after taking into consideration the record of the case and after perusal of the findings recorded by the learned Tribunal, I do not find any justification to grant any enhancement to the claimants. It is apparent that the claimants have remained satisfied by appearing as their own witnesses and producing a doctor. No documentary evidence, whatsoever, was produced by them. Neither any medical bills nor the hospital treatment charges were proved. A mere statement of the doctor mentioning that the injured had suffered a permanent disability is not sufficient to hold that the injured had indeed suffered any permanent disability. In these circumstances, I do not find that there is any scope for interference in the compensation awarded by the Tribunal. The Tribunal has taken into consideration the entire evidence on record and each aspect for which the compensation was liable to be paid to the claimants has been taken note of.

15. Consequently, I do not find any merit in the appeals and the same are accordingly dismissed.