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Court : Himachal Pradesh

Decided On : Dec-31-2004

Reported in : II(2005)ACC545

Judge : Deepak Gupta, J.

Appellant : Ram Pal

Respondent : Vinod Kumar and ors.

Judgement :

Deepak Gupta, J.

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 is directed for enhancement of compensation against the Award of the Motor Accident Claims Tribunal-I, Sirmaur District at Nahan, H.P. (hereinafter referred to as the Tribunal), in MAC Petition No. 21-MAC/2 of 1998 decided on 4.10.1999.

2. The appellant along with his friend Rajinder Singh was on Motor Cycle No. CHH-3435, which was hit by a TATA Sumo No. DL-8-CB-0190. The factum of the accident is not in dispute. Even the finding on the issue of negligence is not under challenge. The only question to be decided in this appeal is, what is the just and reasonable compensation, which the appellant is entitled to.

3. Mr. Romesh Verma, learned Counsel appearing on behalf of the claimants has urged that the appellant had suffered fracture of both bones of his right leg and that he remained admitted in PGI Chandigarh from 27th October, 1997 to 29th October, 1997 and that thereafter he has been bed ridden for a long period of time and had to take treatment in the local hospital in Raipur Rani. He has also pleaded that various documents have been placed on record which show that the appellant has spent more than Rs. 80,000/- on medicines alone and, therefore, the amount of Rs. 61,000/- awarded to him on account of compensation is extremely low and the compensation should be suitably enhanced.

4. There is no doubt that the accident took place. There is also no doubt that the claimant suffered injuries in the accident. Photocopy of the discharge slip of PGI Chandigarh which is Ext. P-61 clearly shows that the appellant was admitted on 27th October, 1997 and discharged on 29th October, 1997. In the diagnosis there is mention of fracture of both bones of right leg which were operated upon and treatment done. On discharge from PGI the appellant was advised to get his dressing done at an interval of 3 days in local hospital. He was also advised to get stitches removed in local hospital on 11.11.1997 i.e., after about two weeks. He has been advised to do active quadriceps exercise and knee bending exercise. It has also been mentioned that he can walk with non-weight bearing crutches. In the discharge slip some medicines were prescribed for him for 3 days and thereafter certain other medicines were prescribed for him for a period of 5 to 10 days. The appellant has visited the PGI after his discharge six times on 12.11.1997, 26.11.1997, 16.12.1997, 18.12.1997 and 19.2.1998. On 19.2.1998 the fixators were removed from the leg of the appellant. There is nothing on record with regard to his treatment after 19.2.1998.

5. No Doctor has been examined by the claimant to prove the nature or extent of injuries. He has tendered in evidence a large number of bills for treatment, transportation charges, dressing etc. The Tribunal, in its award, has come to the conclusion that most of these bills cannot be relied upon due to the fact that they are of the same dates for the same medicines from different shops. It is quite obvious that the claimant has exaggerated his claim and had filed false documents before the Tribunal. He was admittedly discharged from PGI on 29.10.1997 after

fixators had been applied to his leg. He has produced on record Ext. P-8 a receipt of Rs. - 550/- from one registered medical practitioner of Raipur Rani wherein he has charged for daily dressing for 10 days and for injection of Gentamycine and Klox for 10 days. The petitioner was discharged on 29th October from PGI and was advised to get his dressing done after 3 days. There was no question of getting dressing done till then. In fact the Gentamycine and Klox injections had been prescribed only for 3 days. Therefore, this clearly shows that this documents Ext. D-8 is a procured, forged and false document. Vide Ext. P-7 issued by one Singla Medicos, Raipur Rani the petitioner has allegedly purchased medicines for a sum of Rs. 1,712/-. These are the medicines which are mentioned in his discharge slip. However, there is another cash memo of the same date Ext. P15, issued by M/s. Kumar Brothers, Chandigarh where the same medicines have been bought for only Rs. 279/-. Similarly, vide Ext. P-9 issued by M/s. Dentsurge, Sector 15-D, Chandigarh items worth Rs. 3,710/- have been sold to the appellant on 27.10.1997. Surprisingly, there is a bill Ext. P16 for Rs. 6,435/- issued by the same Singla Medicos for similar items on 31.10.1997. On 29.10.1997 the fixators had already been applied to the claimant by the PGI and why it was purchased again, has not been explained.

6. The prices of the medicines and other equipments in the bills issued by Singla Medicos is very high as compared to other cash memos issued by tine shops situated at Chandigarh which are also on record In view of the fact that these bills have only been tendered in evidence and there is grave doubt with regard to the veracity and correctness of the bills the claimant cannot get any benefit from this Court. The Tribunal has rightly ignored the inflated bills issued by Singla Medicos. The amount awarded on account of medicines by the Tribunal is more than reasonable and the claimant is not entitled to any enhancement especially when he has produced false documents in Court to support his claim. The finding of the Tribunal that the bills of Rs. 50,495/- obtained Singla Medicos, Raipur Rani are fictitious is correct and upheld.

7. Similarly, for transportation the claimant has placed on record one bill Ext. P.69 to the tune of Rs. 16,100/-. This bill cannot also be relied upon. As is apparent from the discharge slip after his discharge the appellant has visited the PGI six

times. Therefore, the amount of Rs. 3,000/- granted to him is more than reasonable. The petitioner is also not entitled to any enhancement for special diet. The petitioner has been awarded Rs. 7,000/- for pain and sufferings. He remained in hospital only for 3 days and thereafter he could walk with the aid of crutches. In the absence of any medical evidence to the contrary it could be presumed that after February, 1998 he could walk around and, therefore, he is not entitled for any enhancement on this count.

8. In this case the disability certificate has not been proved in accordance with law. It has just been tendered in evidence and no Doctor has been examined to prove the same. Therefore, in fact there is no legal evidence with regard to the proof of disability. The Tribunal has however relied upon the disability certificate Ext. P63 and calculated the compensation by taking disability at 15%. He has taken the income at Rs. 1,500/- per month, and assessed monthly loss of income at Rs. 225/- per month or Rs. 2,700/- per year. By applying a multiplier of 10 he awarded a sum of Rs. 27,000/- on this count. There is in my view no proof of disability, since the disability certificate has not been proved in accordance with law. Mere production of a photocopy of the document by a party cannot be taken to be proof of the document or the contents thereof. This document was not even produced during the course of recording the statement of the appellant in which event the other side would have right to cross-examine him. It was only tendered in evidence. The other side objected to exhibiting the photocopy of the disability certificate. This objection was never decided. Even if the strict rules of evidence and the provisions of the Evidence Act are held not to be applicable to Motor Accident Claims Tribunals, nevertheless, a photocopy of a document can never be exhibited without production and proof of the original. The disability has not been proved in accordance with law. Therefore, the claimant cannot get any more amount by way of enhancement.

9. A person, who approaches the Court, must do so honestly and with clean hands. There can be no sympathy for a person who tries to produce false or forged documents and tries to mislead the Court. The petitioner by trying to do so has totally disintitiled himself to get any benefit from this court.

10. The Hon'ble Apex Court in *Vijay Syal and Anr. v. State of Punjab and Ors.* : AIR 2003 SC4023 , held as follows:

24. In order to sustain and maintain the sanctity and solemnity of the proceedings in Law Courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the Court, when a Court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation, and is concealing material facts it does so at its risk and cost. Such party must be ready to take the consequences that follow on account of its own making. At times lenient or liberal or generous treatment by Courts in dealing with such matters is either mistaken or lightly taken instead of learning a proper lesson. Hence, there is a compelling need to take a serious view in such matters to ensure expected purity and grace in the administration of justice.

11. In the present case the appellant has not only tried to mislead the Court but has also filed documents which on the face of it are fictitious and forged. Therefore, the appeal is dismissed with costs which are quantified at Rs. 3,000/-.

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