

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.5080 of 2003 (O & M)
Date of Decision: *February 26, 2015*

Luxmi Chand

..... APPELLANT

VERSUS

Jatinder Kumar & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. Nitika Jindal, Advocate, for Mr. Vishal Gupta, Advocate, for the appellant.

Mr. Rohit Goswami, Advocate, for Mr. D.P. Gupta, Advocate, for respondent No.3 – Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by the claimant against Award dated October 01, 2003 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for brevity, 'Tribunal') whereby claim petition moved by the

injured – claimant was partly allowed and a sum of ₹ 70,000/- was awarded as compensation on account of injuries sustained by him in the motor vehicle accident on November 07, 2011 wherein driver, owner and insurance company to be jointly and severally liable to pay the amount of compensation. Through this appeal, appellant has sought enhancement of compensation so awarded by the Tribunal.

2. While assailing the impugned award, it has been argued by learned counsel for the appellant that compensation awarded by the Tribunal is insufficient and inadequate keeping in view the gravity and seriousness of injuries sustained by the appellant in a vehicular accident involving Motor-Cycle No.HR-2G-4559. The appellant – claimant received serious multiple injuries in the accident. He remained admitted in Civil Hospital, Yamuna Nagar whereafter he was referred to PGI, Chandigarh. He was operated upon and steel rod was inserted in his left hand finger. His jaw was refixed and left arm was plastered. He also remained admitted in Sharma Hospital, Jagadhri for 14 days and on second time he again admitted in Sharma Hospital for two days. He spent about ₹ 50,000/- on medical treatment besides transportation and special diet etc. He has suffered 10% permanent disability. All these facts have

been ignored by the learned Tribunal while awarding compensation. Thus, amount awarded by the Tribunal i.e. ₹ 70,000/- deserves to be enhanced and atleast just, adequate and reasonable compensation be awarded.

3. On the other hand, learned counsel for respondent No.3 – Insurance Company has controverted the submissions made by learned counsel for the appellant submitting that the impugned award is absolutely in consonance with the evidence available on file and settled canons of law. Each and every aspect of the case has been elaborately discussed at length by the Tribunal before arriving at a conclusion to assess the amount of compensation. An amount of ₹ 70,000/- has been awarded alongwith interest @ 9% per annum which is just and adequate compensation. Thus, learned counsel for the respondent – Insurance Company has prayed for dismissal of the appeal with special costs.

4. This Court has given an anxious consideration to the aforesaid submissions made by learned counsel for the parties and perused the record.

5. It is an admitted fact that the Tribunal has awarded a sum of ₹ 20,000/- towards medical expenses, a sum of ₹ 20,000/- on account of permanent disability to the extent of

10% and a sum of ₹ 30,000/- on account of pain & suffering, totaling ₹ 70,000/-.

6. It is also an admitted fact that the claimant was operated upon. He remained hospitalized for a few days. Dr. Kamal Sharma of Sharma Hospital, Jagadhri was examined as PW-3, who deposed on oath that the claimant was admitted in his hospital on November 11, 2001 and remained hospitalized till November 22, 2001. He suffered multiple injuries on the head and neck, mainly, fracture of mandible, besides injuries to teeth and throat. He was advised surgical intervention to rectify fracture mandible and teeth. PW-4 - Dr. Deepan Jain, Medical Officer, Civil Hospital, Jagadhri, deposed that the claimant was examined on November 27, 2002 for assessment of his handicap, and as per disability certificate dated December 18, 2002, Ex.P-34, permanent disability to the extent of 10% was assessed. This Court is of the considered view that the claimant must have incurred on transportation besides medicines. Even otherwise, family members also used to visit victim in the hospital regularly. In view of the above, compensation awarded to the claimant is hereby enhanced by ₹ 30,000/-, which shall be payable by the Insurance Company – respondent No.3.

7. In the light of what has been discussed above, appeal is partly allowed and appellant – claimant is entitled to enhanced compensation to the tune of ₹ 1,00,000/- against a sum of ₹ 70,000/- already awarded by the Tribunal. The enhanced amount shall be payable within a period of 45 days from the date of receipt of certified copy of the judgment, otherwise, claimant shall be entitled to interest @ 9% per annum from the date of original claim petition.

8. No order as to costs.

February 26, 2015
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(Jaspal Singh)
Judge