

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 4334 of 2005

Date of Decision:- 06.04.2015

Bhim Singh

.....Appellant

Versus

Rajnish and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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?

Present: Mr. J.S. Chatrath, Advocate,
for the appellant.

Mr. Radhey Sham Sharma, Advocate,
for respondent No.2.

SHEKHER DHAWAN, J.

Appellant, being dissatisfied, with the award dated 22.04.2005, passed by the Motor Accidents Claims Tribunal, Narnaul (hereinafter to be referred as 'the Tribunal'), whereby the Tribunal has awarded the compensation to the tune of ₹89,000/-, on account of injuries having been sustained by the appellant.

2. Undisputed facts of the case that on 02.01.2004 claimant Bhim Singh was going to his house. Meanwhile, respondent No.1 Rajnish came on his motorcycle bearing registration No.HR-34A-5683. As per

claimant the said motorcycle was being driven in rash and negligent manner and struck against him. As a result of that he got injured and both the bones of right leg were fractured along with his two teeth. The claimant was taken to Kanina Hospital. Thereafter, he was taken to General Hospital, Mahendergarh. The claimant had to spend a sum of ₹30,000/- on his treatment. He was of the age of eight years at the time of accident and as a result that accident he had become permanent disabled. The claimant claimed compensation to the tune of ₹5,00,000/-. The respondents contested the claim petition on all accounts and prayed that the claim petition be dismissed.

3. The Tribunal after considering the material and evidence available on file, awarded compensation to the tune of ₹89,000/- along with interest @ 6 per annum from the date of filing the claim petition. Being dissatisfied with the amount of compensation awarded by the Tribunal, the appellant is before this Court.

4. Mr. J.S. Chatrath, Advocate, learned counsel for the appellant took the plea that the Tribunal has not considered the material points involved in this case i.e. the age of the injured was just eight years and he had suffered 15% permanent disability on account of fracture. He had suffered on account of pain and suffering because of injuries having been sustained in this accident. The multiplier to be applied in this case was of 18 and the Tribunal has not considered this aspect. Even no attendant charges were given.

5. Mr. Radhey Sham Sharma, Advocate, learned counsel for respondent No.2-Oriental Insurance Company took the plea that the

Tribunal has already awarded just compensation and the recovery rights have been given to the insurance company, so, the appeal be dismissed.

6. Having considered the rival contentions raised by learned counsel for both the parties, this Court is of the considered view that the Tribunal has already awarded the actual medical expenses incurred by the claimant. It is not the case of the appellant that any medical expenses against whom the bills were produced on the file remained unsatisfied. The appellant was also awarded a sum of ₹10,000/- on account of pain and suffering, ₹15,000/- on account of special diet, ₹54,000/- on account of permanent disability (as the disability was 15% qua particular limb) but the same was to the effect the performance of the whole body. Though the appellant has been adequately compensated for injuries having been suffered in the accident, this Court is of the view that the appellant has not been adequately compensated under the head of pain and suffering because a meager amount of ₹10,000/- has been awarded though the age of injured was just eight years. He shall have to suffer on account of 15% disability throughout his life. The said disability has affected his prospects of marriage, enjoyment of life as well. So, the adequate compensation in this case under the head of loss of enjoyment of life and loss of prospectus of married life have not been awarded. The compensation enhanced by ₹40,000/- (₹20,000/- on account of loss of enjoyment of life + ₹20,000/- on account of loss of prospectus of married life, over and above the amount awarded by the Tribunal. The enhancement shall be paid by the respondents within a period of one

month from today, failing which, the appellant shall be entitled to receive the amount along with interest @ 9% per annum from today. However, the remaining conditions regarding payment of amount of compensation, disbursal of amount, recovery rights shall remain unaltered.

7. Accordingly, the present appeal is accepted partly.

April 06, 2015
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(SHEKHER DHAWAN)
JUDGE