

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

F.A.O. No.39 of 2006

Date of Decision: May 05, 2015

Salinder Kumar

...Appellant

Versus

Mangal Singh & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.R.S.Mamli, Advocate,
for the appellant.

Mr.R.C.Kapoor, Advocate,
for respondent No.3.

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?

Naresh Kumar Sanghi, J.(Oral)

The present appeal has been filed by the appellant/claimant challenging the award dated 01.10.2005 passed by learned Motor Accidents Claims Tribunal, Jagadhri (for brevity “learned Tribunal”).

Learned counsel for the appellant contends that the appellant, Salinder Kumar alias Surinder Kumar, was aged about 26 years and a teacher by profession, met with an accident on 04.02.2004 and sustained injuries on his liver, intestines and right arm. He remained admitted for approximately a month at Gabba Hospital, Yamuna Nagar. He was operated upon for the

repair of intestines and the ruptured liver. Since the injured had also sustained fracture of radius bone in the right arm, therefore, after operation and setting right the bone, the plaster was applied. Learned counsel pointed out that learned Tribunal has awarded a meagre amount of Rs.1,45,400/- under different heads as mentioned in para No.12 of the impugned award. In fact the learned Tribunal should have awarded much more than what has been mentioned in para No.12 of the Award.

Learned counsel for the Insurance Company of the offending vehicle submits that except the expenditure on the treatment, medicines and repair of motor cycle, nothing was spent by the claimant/appellant and as such, the award passed by learned Tribunal is already on the higher side. He further pointed out that the appellant/claimant was resident of Yamuna Nagar and the accident had taken place at Yamuna Nagar and he was treated at that very place in Gabba Hospital and as such, he had not to bear the transportation charges whereas, the learned Tribunal has awarded Rs.10,000/-(Rupees ten thousand only) on account of special diet and transport charges.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Since the present appeal has been filed by the

claimant for modification and enhancement of the award passed by learned Tribunal and the verdict of negligence has not been challenged by the driver, the owner and the insurance company of the offending vehicle, therefore, this Court does not deem it necessary to deal with the issues with regard to negligence on the part of the driver of the offending vehicle and other related issues. This Court shall confine its discussion as to whether the learned tribunal has awarded appropriate compensation to the appellant or there is scope for its enhancement.

As per the learned counsel, the appellant/claimant aged about 26 years was a teacher in a Govt. school at the time of accident. The only grievous injury suffered by the appellant was on the radius bone of right arm. The medical board has assessed the non-progressive disability to the extent of 8% only. The learned Tribunal while dealing with issue of the amount to be awarded to the claimant held as under:-

“I have considered the rival contentions of the parties and I find that total amount of the bills including that of the repair of motor cycle comes to around Rs.71,400/-. Thus, the petitioner is entitled to this amount on account of expenses suffered by him. Keeping in view the duration of the injuries, he is further allowed Rs.25,000/- for pain and sufferings. He is also allowed

an amount of Rs.24,000/- on account of 8% disability. He is also allowed an amount of Rs.10,000/- on account of transportation charges and special diet. He is also allowed an amount of Rs.5000/- on account of attendant charges. Thus, in all he is entitled to Rs.1,45,400/- as compensation for the injuries, as well as for damage caused to his motor cycle. This amount shall be payable by the respondents, jointly and severally. The issue is decided accordingly."

Since the appellant/claimant had produced the medical bills including the expenses suffered for repair of motor cycle to the tune of Rs.71,400/- (Rupees Seventy one thousand and four hundred). The same were accepted in toto and the said amount was awarded to the appellant/claimant, therefore, there is no scope for enhancement so far as the expenses on medicines, treatment and repair of motor cycle is concerned. The learned Tribunal has further allowed Rs.25,000/-(Rupees Twenty five thousand) for pain and suffering. In addition thereto, an amount of Rs.24,000/- (Rupees Twenty four thousand) has been awarded for non-progressive disability of 8%. The learned Tribunal was also generous in allowing Rs.10,000/- (Rupees ten thousand) on account of special diet and transportation charges. Rs.5,000/-(Rupees five

thousand) were also granted on account of attendant charges and thus, a total sum of Rs.1,45,400/- (Rupees One lac forty five thousand and four hundred) along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization was awarded to the claimant. This Court is of the considered view that adequate compensation has been awarded under different heads to the appellant/claimant and as such, there is no scope for further enhancement. In view of the above terms, the present appeal fails and is hereby dismissed.

May 05, 2015
seema

(Naresh Kumar Sanghi)
Judge