

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4273 of 2011

Date of Decision:-24.03.2015.

Agan Dev

.....Appellant

Versus

Puran Chand and others

.....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. S.K. Yadav, Advocate for the appellant.

Mr. Nitin Mittal, Advocate for respondent No.3.

SHEKHER DHAWAN, J.

Present appeal is challenge to the award dated 29.01.2011, passed by the Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as 'The Tribunal'), whereby compensation of a sum of ₹ 1,40,000/- was awarded in favour of the appellant-claimant.

Brief facts relevant for the purpose of decision of the claim petition that appellant met with motor vehicular accident on 14.11.2009. On that day he was traveling in a bus and when he alighted from the bus at about 2.30 p.m., a pick up vehicle bearing No.HR 66/4017 came from Ateli side. The said vehicle was being

driven in a rash and negligent manner by respondent No.1 and struck against the appellant and the appellant sustained injuries. He was shifted to the hospital for treatment. Matter was reported to the police.

Respondent Nos.1 and 2 i.e. driver and owner of the vehicle denied the averments of the claim petition. Identical pleas were taken by respondent No.3-Reliance General Insurance Company Limited and it was prayed that claim petition be dismissed.

The Tribunal after considering the entire material and evidence available on the file decided the claim petition thereby awarding a sum of ₹ 1,40,000/- on account of compensation for having injuries caused to the appellant.

Appellant being dissatisfied with the amount awarded by way of compensation has come before this Court by way of present appeal.

Mr. S.K. Yadav, learned counsel for the appellant took the plea that the Tribunal has completely ignored the material facts that appellant had suffered 9% disability in this motor vehicular accident. He was just of the age of 22 years and was a young and unmarried man. He remained as indoor patient for 15 days. He had to go through trauma in his life and suffered a great loss on account of pain and suffering and loss of income. Learned counsel for the appellant also took the plea that the appellant remained on bed for 9 months and suffered a huge loss on account of loss of earnings during the

said period. The Tribunal has not considered all these aspects while awarding the compensation and the same be suitably enhanced.

Mr. Nitin Mittal, Advocate learned counsel for respondent No.3-Insurance Company took the plea that the Tribunal has already awarded 'just compensation'. The entire medical expenses have already been reimbursed. Appellant has been duly compensated for pain and suffering. There was no loss of income and as such, the present appeal is without any merit and the same be dismissed.

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 compensated the appellant for entire medical expenses paid by him. However, he has not been suitably compensated on account of pain and suffering as he had suffered 9% disability as well. The Tribunal has awarded a sum of ₹ 18,000/- only under that head and the same should be enhanced especially when the appellant had sustained injuries including fracture. It is the case of the appellant that he remained on bed for 9 months but he has not been compensated on account of loss of income during the said period. The appellant requires to be compensated under that head also.

The awarded amount of compensation under the head of compensation on account of 9% disability enhanced from ₹ 18,000/- to ₹ 27,000/-. Although, there is no proof that the appellant remained on bed for a period of 9 months but in all probabilities, he must have

remained on bed for at least 2/3 months as he remained as indoor patient for 15 days as well. The appellant is certainly entitled to compensation under that head and in the present case the same assessed to be ₹ 20,000/-. That way the appellant is entitled to enhanced compensation to the tune of ₹ 29,000/- (₹ 9,000/- under the head of pain and suffering on account of 9% disability + a sum of ₹ 20,000/- on account of loss of earnings during the period which he remained on bed) and the total amount of compensation enhanced from ₹ 1,44,000/- to ₹ 1,73,000/-. The enhanced amount of compensation be deposited within a period of 45 days. However, remaining conditions regarding payment of interest and disbursal of amount shall remain unaltered.

Accordingly, the present appeal is accepted partly.

(SHEKHER DHAWAN)
JUDGE

March 24, 2015.

sandeep sethi