

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 1894 of 2012 (O&M)
Date of decision : August 10, 2015

Mukesh Kumar
... Appellant

vs.

Kuldeep and others
... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.S. Shekhawat, Advocate for the appellant.
Mr. Vishal Aggarwal, Advocate for respondent No.3.

Surinder Gupta, J

This is an appeal filed by Mukesh Kumar injured-claimant against the award dated 21.10.2011 passed by Motor Accident Claims Tribunal, Rohtak (herein referred as, 'the Tribunal') whereby the appellant was awarded compensation of ₹46,000/- towards injuries suffered by him in the accident with car bearing registration No. HR-12-G-5080.

As per appellant, on 17.4.2011, he was going to village Kharadi from village Lahli on motor cycle bearing registration No.HR-12Q-2845. When he was about 1 km away from the turn of village Kalanaur, offending vehicle came from the opposite direction at a high speed. It was being driven in a very rash and negligent manner and hit the motor cycle of appellant-claimant, as a result of which he received grievous injuries. He was taken to Government Hospital, Kalanaur and from there he was referred to P.G.I.M.S. Rohtak where he remained admitted from 17.4.2011 to 22.4.2011. He had suffered fracture on his person resulting in 15% permanent disability. The Tribunal awarded compensation to the appellant on the following heads :-

<i>Sr.</i>	<i>Head under which compensation awarded</i>	<i>Amount</i>
1.	For 15% permanent disability suffered by the claimant.	₹25,000/-
2.	Medial expenses	₹7,000/-
3.	Attendant, special diet and transportation charges	₹4,000/-
4	Mental and physical agony	₹10,000/-
	Total	₹46,000/-

Learned counsel for appellant had argued that no compensation was allowed towards loss of amenities of life, loss of earning etc. The compensation allowed for permanent disability, mental and physical agony for attendant, special diet etc. were also on lower side.

Learned counsel for respondent No.3-Insurance Company has argued that appellant-claimant though remain admitted in hospital for 5-6 days but had not undergone any surgery. For his fracture plaster was provided and he got cured in due course. There was no evidence of loss of income on record, as such, the Tribunal did not award any compensation on that score.

It is not disputed that the appellant-claimant remained admitted in hospital for 5-6 days and had also suffered 15% permanent disability. The amount of compensation allowed by the Tribunal towards mental agony, nutritious diet, attendant, transportation and permanent disability cannot be termed as inadequate. The Tribunal has not awarded any compensation towards loss of income. In view of the above, the appellant-claimant is held entitled to the compensation as follows :-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	For pain and suffering	₹15,000/-
2	For 15% permanent disability	₹1,00,000/-
3	For loss of income (6 to 10 weeks are taken for a fracture to heal)	₹20,000/-
4	Towards nutritious diet and attendant	₹10,000/-
5	Transportation charges	₹8,000/-
6	Medical expenses	₹7,000/-
	Total	₹1,60,000/-

This appeal is accordingly allowed. The appellant-claimant is allowed compensation to the tune of ₹1,60,000/- on account of injuries sustained by him in the accident along with interest @ 6% per annum from the date of institution of the petition till actual realization.

It is, however, made clear that the amount of compensation already paid shall be adjusted towards the compensation awarded.

(Surinder Gupta)
Judge

August 10, 2015
deepak