

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.4626 of 2012 (O & M)
Date of Decision: *February 19, 2015*

Atul Bansal

..... APPELLANT

VERSUS

Banwari Lal & 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. Ashok Jindal, Advocate, for the appellant.

Mr. R.S. Dhull, Advocate, for respondent No.3
– Insurance Company.

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Jaspal Singh, J

1. Dis-satisfied against Award dated February 06, 2012 passed by the Motor Accident Claims Tribunal, Bathinda (for brevity, ‘Tribunal’), vide which, the claim petition was disposed of by holding respondent Nos.1 to 3, jointly and severally liable to pay compensation to the tune of ₹ 1,10,000/-

on account of injuries sustained in a vehicular accident which occurred on Santpura Road on June 08, 2010 in the area of District Bathinda, the appellant/ claimant has preferred the instant appeal seeking enhancement.

2. In response to notice issued to respondent No.3 – Reliance General Insurance Company Limited (for short, ‘Insurance Company’), Mr. R.S. Dhull, Advocate, appeared and represented it.

3. The only contention of learned counsel for the appellant is that it is an undisputed fact that the accident occurred due to rash and negligent driving of Canter No.RJ-31-G-0738 but while awarding compensation, the learned Tribunal has awarded only a sum of ₹ 10,000/- on account of special diet, transportation, attendance, pain, suffering and mental agony. The learned Tribunal has failed to appreciate that the appellant remained admitted in Bharat Brain Hospital from June 08, 2010 to June 11, 2010. Subsequently, due to his precarious condition, he was shifted to CMC, Ludhiana on June 11, 2010 where he remained admitted upto June 26, 2010. He was also operated upon for liver rapture and fracture of right side ribs. He remained bed ridden for a period of more than six months even after discharge from the hospital.

Thus, the amount of compensation awarded by the Tribunal deserves to be enhanced.

4. On the contrary, the contention of learned counsel for respondent No.3 – Insurance Company is that just and adequate compensation has already been awarded by the learned Tribunal keeping in view the oral as well documentary evidence adduced by the appellant/ claimant. He could only place on record the bills amounting to ₹ 99,696.75/- and a sum of ₹ 1 lac has been awarded to him as medical expenses. Similarly, an amount of ₹ 10,000/- is also just and proper, awarded on account of special diet, transportation, attendance, pain, suffering and mental agony. Since the award is absolutely inconsonance with the evidence available on file, no interference of this Court is justified.

5. This Court has given an anxious thought to the submissions made by learned counsel for the parties and perused the record.

6. Undisputedly, the appellant/ claimant sustained injuries in a vehicular accident involving Canter No.RJ-31-G-0738 which was being driven rash and negligent by respondent No.1. The vehicle in question was duly insured with Insurance Company at the date and time of the accident. The

question for determination is only that whether the amount of compensation is just and adequate in view of the facts and circumstances of the case and the injuries sustained by the appellant/ claimant.

7. As far as an amount of ₹ 1 lac on account of medical treatment and other expenses is concerned, appellant has produced and proved on record various bills, the total amount of which comes to ₹ 99,696.75/- but an injured or patient cannot be expected to retain each and every bill, especially when he is being attended by his near and dears. This Court is, thus, of the considered view that compensation to the tune of ₹ 1 lac is not suffice and it deserves to be enhanced. So, to meet the ends of justice, enhancement of ₹ 20,000/- is justified.

8. Similarly, on account of special diet, transportation, attendance, pain, suffering and mental agony, only a sum of ₹ 10,000/- has been awarded. Injuries were sustained by the appellant in the area of Bathinda and he remained admitted in Bharat Brain Hospital for four days and due to his precarious condition, he was shifted to CMC, Ludhiana on June 11, 2010 where he remained admitted upto June 26, 2010. He was also operated upon not only for liver

rapture but also for fracture of ribs. It also cannot be expected that immediately after discharge from the hospital, he would return to his work. A sum of ₹ 10,000/- in the given circumstances can neither be termed to be just nor adequate. Accordingly, taking into consideration all the aspects as discussed above, amount of ₹ 10,000/- is enhanced to ₹ 30,000/- i.e. ₹ 20,000/- in addition to the amount already awarded under the aforesaid head. In toto, the compensation stands enhanced by ₹ 40,000/- making the total amount of compensation to the tune of ₹ 1,50,000/- alongwith interest as already awarded by the Tribunal from the date of filing of claim petition till actual realization.

9. In the light of what has been discussed above, the compensation stands enhanced by ₹ 40,000/- as observed in the foregoing paragraph. The appeal is, thus, partly allowed.

10. No order as to costs.

February 19, 2015

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**(Jaspal Singh)
Judge**