

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2192 of 2013 (O&M)
Date of Decision:04.02.2015

Sunny

....Appellant

Versus

Muneer Ahmad and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Sanjeev Patiyal, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate for respondent No.3-
National Insurance Company Ltd.

NAVITA SINGH, J.

1. Motor Accident Claims Tribunal, Karnal (Tribunal for short) awarded an amount of Rs.1,67,573/- to the appellant for the injuries received by him in a roadside accident, which happened on 18.2.2010.
2. Counsel for the appellant argued that there was 20% permanent disability but the Tribunal awarded an amount of Rs.40,000/- and a meager amount of Rs.5000/- towards pain and suffering. He, as per the statement of the claimant, he remained hospitalized for four months and also as per Dr. K.S. Sachdeva, the patient, in such cases of fracture, is advised rest even upto six months.
3. Counsel for the Insurance Company, however, contended that the petition was filed under Section 163-A of the Motor Vehicles Act (Act for short). The amount awarded for pain and sufferings was adequate and also the award for the amount more than Rs.1,00,000/-, the treatment was a favour to the appellant.
4. This argument of respondent will not hold good as it is found that the petition was filed under Section 166 of the Act and the point of negligence was

delved upon by the Tribunal. A specific issue was framed and it was held that the accident occurred on account of rash and negligence driving of respondent No.1 of the offending vehicle.

5. It is understandable that the disability was qua the particular limb i.e. left leg but not qua the whole body, yet tremendous physical and mental agony must have been suffered by the appellant.

6. Counsel for the appellant relied on Rajendra Vs. Pradeep Patwari and others 2009 ACJ 2864. However, in the said case, the claim was preferred under Section 163-A of the Act. In any case, there was 35% disablement and the Supreme Court enhanced the compensation to Rs.2,14,000/- cumulatively.

7. It is, therefore, felt that the appellant is entitled to enhancement of compensation for pain and suffering because he was adequately compensated under other heads. The amount of Rs.5000/- awarded for pain and suffering is, therefore, enhanced to Rs.50,000/-, which would include the expenses for special diet etc. and attendant as well. The total amount of compensation will now be Rs.2,12,573/-. Enhanced amount shall get an interest at the rate of 6% per annum.

8. The appeal is allowed in the above said terms.

**(NAVITA SINGH)
JUDGE**

04.02.2015

Ishwar

Whether to be referred to reporter: Yes