

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**XOBJ No. 20-CII of 2002 in/&
FAO No. 2769 of 2000 (O&M)
Date of Decision : 18.02.2016**

Harpreet Singh

....Appellant

Versus

Darshan Lal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sagar Aggarwal, Advocate
for Mr. Ashit Malik, Advocate
for the appellant.

Surinder Gupta, J.

FAO No. 2769 of 2000 (O&M)

This is appeal by Harpreet Singh-claimant seeking enhancement of compensation allowed by the Motor Accident Claims Tribunal, Karnal (later referred to as 'the Tribunal') for the injuries received by him in a motor vehicle accident with four-wheeler bearing registration No. HR-05-5114 (later referred to 'the offending vehicle').

2. Case of claimant, in brief, is that on 17.08.1996, he alongwith his friend Hemant Kumar was coming from Madhuban to Karnal on motorcycle bearing registration No. CH-01-M-0954, which he was driving at a very moderate speed and on correct side of the road. When they reached near Kalandri Gate, Karnal, the offending vehicle came from opposite side, which was being driven by respondent no. 1-Darshan Lal in a rash and negligent manner at a high speed. He attempted to overtake a rickshaw from wrong side and hit the motorcycle of claimant. In the accident, claimant received multiple injuries on his person including fracture in his arm and was shifted to hospital. The matter was reported to the police vide FIR No.

753 dated 18.08.1996.

3. At the time of accident, claimant was a student of B.A. final year and used to do tuition work. After the accident, he was not in a position to do any work and had spent ₹25,000/- on his treatment. He was having 'C' certificate of NCC Army Wing and his career was very bright as he would have been selected in a short service commission but due to disability in his arm he could not succeed.

4. Respondent no. 2-Prem Chand contested the claim petition *inter alia* pleading that he was not owner of the offending vehicle as he sold the same to Suresh who was later on impleaded as respondent no. 2-A.

5. On notice, respondent no. 2-A appeared and pleaded that he has also sold the vehicle in question on 22.03.1996 to Harish Kumar, who was impleaded as respondent no. 2-B.

6. Respondent no. 2-B in his written reply denied the accident and pleaded that respondent no. 1 was falsely implicated in this case because of the influence and relation of father of claimant with police officials. All the other averments of claimant were also contested, controverted and denied.

7. On appraisal of evidence, the Tribunal observed that the accident had taken place due to rash and negligent driving of four-wheeler by its driver i.e. respondent no. 1. The claimant was allowed compensation of ₹20,000/-, which was computed as follows:-

Sr. No.	Heads	Calculation
(i)	Towards medical expenses	₹5000
(ii)	Towards pain and suffering	₹12000

(iii)	Loss of income @ ₹1000/- per month for three months	₹3000
Total		₹20000

8. Learned counsel for the appellant has argued that the Tribunal while computing the amount of compensation failed to look into the fact that claimant has suffered fracture of arm, which adversely affected his future prospects. Though, he could not produce any evidence of his suffering any permanent disability, but this fact could be taken note that claimant was aspirant for his selection in short service commission with Army as he was having 'C' certificate of NCC Army and fracture of arm has adversely affected his avenues and prevented him from joining short service with Army.

9. The Tribunal has also given lump sum compensation of ₹12,000/- towards pain and suffering instead of assessing the compensation separately under each conventional head.

10. On going through the award and paper-book, I find that after accident claimant was examined by Dr. Vijay Gupta as PW-2, who has stated that on 17.08.1996, claimant was brought to his hospital and was having fracture of upper shaft of the right humerus. He conducted x-ray examination and treated him. Claimant remained outdoor patient and was not admitted in the hospital. He has also not deposed about any disability suffered by claimant because of the injuries received by him. There is no medical evidence that the fracture has caused any deformity or obstruction in the movement of arm of the claimant. The claimant produced the bills of purchase of medicines (Ex. P-3 to Ex. P-13) totaling ₹2184/- but the Tribunal assessed his medical expenses as ₹5000/-. It is correct that the Tribunal has not assessed compensation under all the conventional heads separately and had given a lump sum amount of ₹12,000/-

towards pain and suffering, which can be segregated and separately assessed. Besides, the Tribunal also allowed ₹3000/- towards loss of income observing that claimant might have been doing tuition work and earning ₹1000/- per month.

11. Keeping in view the facts and circumstances of the case, under the conventional heads, claimant can be allowed ₹10000/- towards pain and suffering, ₹3000/- for attendant charges, ₹2000/- towards nutritious diet, ₹2000/- towards transportation charges, ₹5000/- towards future medical expenses, as a person who suffers fracture requires medical check up and physiotherapy after union of fracture and ₹3000/- towards loss of income, as assessed by the Tribunal. The total compensation to which claimant is entitled is tabulated as follows:-

Sr. No.	Heads	Calculation
(i)	Towards medical expenses as calculated by the Tribunal	₹5000
(ii)	Towards pain and suffering	₹10000
(Iii)	Future medical expenses	₹5000
(iv)	Loss of income @ ₹1000/- per month for three months as assessed by the Tribunal	₹3000
(v)	Towards nutritious diet	₹2000
(vii)	Transportation expenses	₹2000
(viii)	Attendant charges	₹3000
Total		₹30000

12. In view of my above discussion, this appeal has merit and is accepted. Award of the Tribunal is modified and the compensation allowed to claimant is enhanced from ₹20,000/- to ₹30,000/-. The amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petition till actual realization. As per

award passed by the Tribunal, respondents no. 1 and 2 shall be jointly and severally liable to pay the amount of compensation.

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None has appeared on behalf of the cross-objector-respondent no. 2.

Dismissed due to non-appearance of cross-objector-respondent no. 2 or his counsel.

February 18, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether to be referred to the Reporters? Yes/No