

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**FAO No. 3985 of 2001 (O&M)**  
**Date of Decision : 11.01.2016**

Anil Kumar Dhingra

.....Appellant

Versus

Ram Phal and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Yashpal Thakur, Advocate  
for Mr. Adarsh Jain, Advocate  
for the appellant.

Mr. V. Ramswaroop, Advocate  
for respondent no. 3-Insurance Company.

**Surinder Gupta, J.**

This is appeal filed by the claimant seeking enhancement of compensation awarded to him by the Motor Accident Claims Tribunal, Faridabad (later referred to as 'the Tribunal') for the injuries received by him in a motor accident with car No. DNA-8607 (later referred to as 'the offending vehicle').

2. Case of the claimant, in brief, is that on 10.05.1996 at about 10.30 p.m. he was standing in front of STD/PCO booth at Sector 22, Faridabad with a scooter bearing registration no. DIQ-6553. He was starting the scooter for going to his house when driver of the offending vehicle put it in reverse gear and hit the scooter. The claimant, who fell on the road, received multiple injuries which included fracture of both legs, left arm and left side ribs.

3. The claimant was admitted in Escorts Hospital, Faridabad and then in Moolchand Jain Hospital, Delhi. He also

remained under treatment of Dr. Suresh Arora, Ortho-Surgeon and Dr. B.B. Chanda.

4. Respondent no. 3-Insurance Company contested the claim petition *inter alia* pleading that no such accident took place and the claimant has come with a concocted story in this behalf to extract money from the Insurance Company.

5. Facts of the case are not being discussed in detail as the only issue involved in this appeal is as to whether appellant is entitled to enhancement of compensation awarded by the Tribunal.

6. The Tribunal recorded the finding that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver. After analyzing the evidence on record, the Tribunal awarded the compensation to the claimant as follows:-

| <b>Sr. No.</b> | <b>Heads</b>                                      | <b>Calculation</b>                                                                                                               |
|----------------|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| (i)            | Towards medical expenses                          | ₹1,04,400<br>(The amount was rounded off to ₹1,10,000 keeping in view that claimant was getting treatment even in the year 1999. |
| (ii)           | Pain and suffering                                | ₹40,000                                                                                                                          |
| (iii)          | Transportation and attendant charges              | ₹25,000                                                                                                                          |
| (iv)           | Special diet                                      | ₹15,000                                                                                                                          |
| (v)            | Loss of income for six months @ ₹5000/- per month | ₹30,000                                                                                                                          |
| <b>Total</b>   |                                                   | <b>₹2,20,000</b>                                                                                                                 |

7. Learned counsel for the appellant has argued that the claimant remained admitted in Escorts Hospital, Faridabad from 10.05.1996 to 11.05.1996; in Mool Chand Khairati Ram Hospital,

New Delhi from 11.05.1996 to 23.05.1996 and then from 03.06.1996 to 09.06.1996 and in Family Hospital, New Delhi from 16.06.1998 to 19.06.1998. This shows that the claimant had been getting treatment even after two years of accident. The Tribunal had also observed in 1999 when the claimant appeared as witness that he was under treatment. The award of compensation of ₹5600/- towards future medical expenses is on the lower side. He has further argued that the claimant required services of attendant during the period he remained under treatment but the Tribunal has clubbed the attendant charges and transportation expenses while awarding compensation of ₹15000/- under this head. The claimant had to take special diet for a long period and had also suffered loss of income for a period of more than two years, as such, compensation awarded by the Tribunal under these heads is also on lower side.

8. Learned counsel for respondent no. 3-Insurance Company has argued that the claimant has not produced any evidence to show that he suffered temporary or permanent disability. In the absence of any such evidence the award of compensation by the Tribunal under the head of loss of income, future medical expenses, transportation charges, special diet and attendant charges etc. are quite appropriate and reasonable and call for no further upward revision.

9. On perusal of the paper-book I find that the claimant had to remain admitted in hospital, for the treatment of injuries received by him in the accident, on different dates from May, 1996 to June, 1998 and had to undergo operations. While appearing as

PW-5 he has stated that he was not in a position to walk freely and had to use clutches.

10. Though, there is no evidence of any permanent or temporary disability produced on record by the claimant but the medical evidence produced on record shows that he had to repeatedly go to the hospital for his treatment. Dr. B.B. Chanda PW-7 has stated that the claimant remained under his treatment and was still unable to walk and move in April, 1999. He had opined that it will take two more years for his recovery and he would not be able to recover fully even after two years. From the above evidence on file, I am of the opinion that after calculating the medical expenses the Tribunal has rightly awarded the compensation of ₹40,000/- on account of pain and suffering as the period of trauma for the claimant has prolonged and he was not in fit state of health even after expiry of two years after accident. However, in the absence of any evidence regarding suffering of temporary or permanent disability, the Tribunal was constrained to allow any compensation for the loss of income for such a long period. The Tribunal, however, noticed that even on 14.01.1999, the claimant was under treatment. This shows that treatment of the claimant continued for a quite long period even after filing of the claim petition. Under these circumstances, the amount of compensation allowed towards future medical expenses as ₹5600/- is on lower side. The claimant was required not only to spend on medicines but also on physiotherapy, exercises etc. He also required special diet to fully recover. The compensation for future medical expenses, as such, is enhanced from ₹5600/- to ₹35,600/-

as treatment of the claimant continued for long time. He is allowed compensation under the head of transportation expenses as ₹15,000/- and for attendant charges ₹25,000/-. The amount of compensation allowed towards special diet is also enhanced from ₹15,000/- to ₹25,000/- and towards loss of income from ₹30,000/- to ₹40,000/-.

11. In view of my above discussion, the compensation to which the claimant is entitled is calculated as follows:-

| <b>Sr. No.</b> | <b>Heads</b>                                                    | <b>Calculation</b> |
|----------------|-----------------------------------------------------------------|--------------------|
| (i)            | Towards medical expenses (as already awarded by the Tribunal)   | ₹104400            |
| (ii)           | Towards pain and suffering (as already awarded by the Tribunal) | ₹40000             |
| (iii)          | Future medical expenses                                         | ₹35600             |
| (iv)           | Transportation expenses                                         | ₹15000             |
| (v)            | Attendance charges                                              | ₹25000             |
| (vi)           | Special diet                                                    | ₹25000             |
| (vii)          | Loss of income                                                  | ₹40000             |
| <i>Total</i>   |                                                                 | ₹285000            |

12. The appeal is accepted and the amount of compensation awarded by the Tribunal is enhanced from ₹2,20,000/- to ₹2,85,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petition till actual realization. The amount of compensation shall be paid by respondent no. 3-Insurance Company to the claimant within a period of six weeks by way of demand draft.

**January 11, 2016**  
jk

**( SURINDER GUPTA)**  
**JUDGE**