

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3510 of 2005 (O&M)
Date of Decision : 12.07.2016

Raj KumarAppellant

Versus

Karambir and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Monika Arora,, Advocate
for Mr. Pritam Singh Saini, Advocate
for the appellant.

Mr. Ravi Malik, Advocate
for Mr. Sunil Ranga, Advocate
for respondent no. 1.

Mr. D.R. Bansal, Advocate
for respondent no. 2.

Surinder Gupta, J.

This is appeal by claimant-Raj Kumar against award dated 24.12.2004 passed by Motor Accident Claims Tribunal, Panipat (later referred to as ‘the Tribunal’) whereby he was allowed compensation of ₹85,000/-, for the injuries suffered by him in a motor vehicle accident, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Compensation for 25% disability	₹50000
(ii)	Medical bills, transportation charges in lump sum	₹20000
(iii)	Loss of income for two months @ 2800/- per month	₹5600
(iv)	Compensation for pain and suffering	₹5000
(v)	Compensation for special diet	₹4400
<i>Total</i>		₹85000

2. Case of claimant, in brief, is that on 14.08.1996 at about 07.30 a.m., when he was going from his village Atta to Samalkha on tempo bearing registration no. HRS-8476, it was hit by jeep bearing registration no. DL-4CD-5998 (later referred to as 'the offending vehicle'), being driven by respondent no. 1-Karambir in a rash and negligent manner.

3. Respondent no. 1-driver of the offending vehicle denied the accident while respondent no. 2-National Insurance Co. Ltd. denied the plea of claimant for want of knowledge. Tribunal observed that the accident had taken place due to rash and negligent driving of the offending vehicle by respondent no. 1 and allowed compensation of ₹85,000/- as discussed in para 1 above.

4. I have heard learned counsel for parties and perused the paper-book with their assistance.

5. Learned counsel for the appellant has argued that claimant had remained admitted in hospital from 14.08.1996 to 11.09.1996 and had suffered 25% disability. Tribunal while awarding compensation has allowed a very meagre amount towards conventional heads of pain and suffering, special diet and transportation charges. No compensation was allowed towards charges of attendants, who took care of claimant during the period he remained admitted in the hospital and remained on bed due to fracture injuries suffered by him. It is evident from the statement of Dr. P.N. Gandhi that claimant had to be admitted again in hospital on 10.07.1998 for curettage for a day. He was advised high protein and nourishing diet. He was operated twice for his injuries. This shows that treatment of claimant continued even after filing of claim petition. Even otherwise, it is a fact that a person, who has suffered fracture injuries,

requires continuous future medical treatment including physiotherapy etc. but nothing was allowed by the Tribunal on this account. Due to 25% disability suffered by claimant he has also suffered loss of amenities of life and no compensation was allowed on this score.

6. Learned counsel for respondent no. 2-Insurance Company has argued that Tribunal allowed medical expenses suffered by claimant and also allowed compensation under all the conventional heads including for disability. The accident had taken place in the year 1996 and keeping in view the price index prevailing at that time amount of ₹85,000/- allowed as compensation was just and reasonable, calling for no further enhancement.

7. Dr. P.N. Gandhi of Gandhi Hospital, who treated the claimant, has stated that on 14.08.1996, claimant was admitted in his hospital with crush injury of left foot with lacerated wound of left leg. He was discharged on 11.09.1996. He was again admitted for curettage on 10.07.1998 and was discharged on 11.07.1998. Two operations were performed on him. Claimant while appearing as PW-2 has stated that he remained confined to bed for about two months due to injuries suffered by him and could not do any work for one and half year. Police had obtained his signatures on blank papers but took no action. Then he filed complaint in Court. *Rapat* no. 16 was recorded by police in connivance with driver of the offending vehicle. On his complaint, respondent no. 1 was summoned by the Court where he was facing trial. Respondent no. 1 while appearing as RW-1 has denied that he was driver of the offending vehicle and has caused any accident.

8. From the evidence on file, it is evident that claimant was getting medical attention and intervention even in the year 1998. He had

also suffered 25% disability. A person, who has suffered fracture injuries and had remained on bed for about two months, requires continuous attention, help and services of an attendant for his daily chores. Tribunal has, though, allowed compensation towards pain and suffering, nutritious diet and transportation charges etc. but some of the conventional heads like compensation towards attendant charges, future medical expenses and loss of amenities of life appears to have skipped the attention of Tribunal. A person, who has suffered disability because of injuries suffered by him in a motor vehicle accident is also entitled to compensation for the loss of amenities of life which in the present case is quantified as ₹50,000/-. Compensation of ₹5000/- each is also awarded for expenses on attendant and future medical expenses while compensation awarded towards pain and suffering is enhanced to ₹10,000/-. In this manner, compensation to which claimant is entitled is reassessed as ₹1,55,000/-. Compensation awarded by the Tribunal under other conventional heads call for no alteration.

9. As a sequel of my above discussion, the appeal is accepted. Award of the Tribunal is modified and compensation allowed to claimant is enhanced from ₹85,000/- to ₹1,50,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization.

July 12, 2016
jk

(SURINDER GUPTA)
JUDGE