

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.**

**FAO No.4617 of 2010.  
Date of Decision: 25.04.2016.**

Ravinder Kumar .....Appellant.

**VERSUS**

Raju @ Parvinder Singh and others .....Respondents.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Mr. R.S. Mamli, Advocate for the appellant.

Respondent No.1 was proceeded against exparte vide order dated 09.12.2014.

Respondent No.2 exparte.

Mr. D.P. Gupta, Advocate for respondent No.3.

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**SNEH PRASHAR, J.**

Appellant-Ravinder Kumar filed a petition invoking the provisions of Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) claiming compensation for the injuries suffered by him in a motor vehicular accident that took place on 20.08.2007 at about 9:00 p.m. near Delhi Public School, village Bhambhol. He was travelling in a Maxi cab bearing Temporary No.HR-99-UHQ-1067 (hereinafter referred to as

“the offending vehicle), the door of which opened due to sharp turn taken by Raju @ Parvinder Singh (respondent No.1) as he was driving in a rash and negligent manner. A First Information Report No.154 dated 23.08.2007 in respect of the accident was registered at Police Station Chhapar under Sections 279, 337 and 338 of the Indian Penal Code against Raju @ Parvinder Singh.

Driver Raju @ Parvinder Singh, owner Narain Singh and insurer National Insurance Company of the offending vehicle were impleaded as respondents in the petition. Respondent No.1 absented from the proceedings and was proceeded against exparte by learned Tribunal. Respondents No.2 and 3 contested the petition but based on the evidence led by both the parties, learned Tribunal arrived at the conclusion that the accident had occurred due to rash and negligent driving of the offending vehicle by Raju @ Parvinder Singh-respondent No.1 and awarded Rs.40,000/- as compensation to the appellant alongwith interest at the rate of 7.5% per annum from the date of filing the petition till actual realization, for the injuries sustained by him in the accident.

Feeling dissatisfied with the award, the appellant preferred the instant appeal.

The submissions made by Mr. R.S. Mamli, learned counsel for the appellant and Mr. D.P. Gupta, learned counsel for respondent No3-insurance company have been heard.

Learned counsel for the appellant contends that the appellant suffered multiple grievous injuries including fracture medial malleolus right

ankle with fracture fibula and fracture of lower end radius for which he was operated upon and he spent approximately Rs.50,000/- on his treatment, but the amount awarded by learned Tribunal on this count is very less. He suffered permanent disability to the extent of 5% and also spent huge amount on transportation, attendant, special diet etc., but was not adequately compensated by learned Tribunal.

Indeed, from the testimony of PW1 Dr. Mahavir Goel of Goel Hospital, Jagadhri it is proved that the appellant suffered contusion all around the right ankle super imposed by a punctured wound 3 mm in diameter. He also suffered fracture of medial malleolus right ankle with fracture fibula and fracture of lower end radius. He remained hospitalized from 20.08.2007 to 01.09.2007 and was operated upon on 21.08.2007 whereby fixation of fracture medial malleolus was done with screw and fracture fibula and radius were treated conservatively with POP.

Perusal of the award shows that no amount has been awarded to the appellant on account of pain and suffering undergone by the appellant. The appellant suffered multiple grievous injuries and remained hospitalized for 11 days. Considering the nature of injuries suffered by him and the period of his hospitalization, a sum of Rs.30,000/- is awarded to the appellant for the pain and suffering undergone by him. The doctor stated that he charged Rs.10,500/- from the appellant vide bill Ex.P1 for hospitalization etc. and proved the laboratory charges bill Ex.P2 for an amount of Rs.450/-. Bills Ex.P7 to Ex.P28 are medicine bills for an amount of Rs.4951/- out of which Ex.P7 to Ex.P9 constitute one composite bill, so

there is no reason to doubt the authenticity of these bills. The said treatment expenses i.e. Rs.10,500/-; Rs.450/-; and Rs.4951/- have already been allowed by learned Tribunal.

The appellant remained hospitalized from 20.08.2007 to 01.09.2007. Learned Tribunal allowed him loss of income only for two months whereas having suffered three fractures the appellant may not have been able to resume his day to day work for atleast six months. The income of the appellant was assessed as Rs.3500/- per month. Therefore, the amount of Rs.7000/- awarded by learned Tribunal for loss of income is enhanced to Rs.21,000/-. As regards disability to the extent of 5% suffered by the appellant, that would not cause loss in future earning capacity and hence, the amount of Rs.10,000/- awarded to the appellant on account of loss of earning capacity is only enhanced to Rs.15,000/-.

Having suffered serious injuries including three fractures the appellant remained hospitalized at Civil Hospital, Jagadhri w.e.f. 20.08.2007 to 01.09.2007 i.e. for 11 days. Needless to say that he required a special attendant during the period of hospitalization as well as till he was able to stand on his own legs and walk. Even if it is taken that his family members were attending on him, he must have spent on their transportation, boarding-lodging etc. In addition to that he must have spent on his own transportation and special diet also. Considering the said facts, the amount of Rs.2000/- allowed on account of special diet and Rs.3000/- as incidental expenses is enhanced to Rs.10,000/-. The recovery rights given to respondent No.3-insurance company and the rate of interest allowed by

learned Tribunal shall remain the same.

Accordingly, the appeal filed by the appellant-claimant is partly allowed and the award dated 05.12.2009 passed by learned Tribunal is modified. The enhanced compensation of Rs.54,000/- shall be deposited by the respondents within 45 days from the date of receipt of certified copy of this judgment failing which the appellant-claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing the appeal till realization.

**(SNEH PRASHAR)**  
**JUDGE**

**25.04.2016.**  
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