

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

FAO-2796-2011 (O&M)
(MACT case No.17 of 18.3.2010)
Date of decision: 12.2.2016

Raj Pal Saini

...Appellant

Versus

Jitender Sarin and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Roopak Bansal, Advocate for the appellant

Mr.Neeraj Khanna, Advocate for the Insurance Company

SNEH PRASHAR, J.

By way of this appeal, the appellant, who suffered injuries in a motor accident, has sought enhancement of the compensation amount awarded by learned Motor Accidents Claims Tribunal, Gurgaon (in short 'the Tribunal'), vide award dated 4.11.2010.

The submissions made by learned counsel for the parties have been heard and record perused.

Learned counsel for the appellant contends that it was proved by PW2 Dr.Damandeep Singh, that the appellant suffered multiple injuries including fracture right acetabulum with fracture right patella for which he was operated upon. Due to the injuries, he has a risk of secondary osteo-arthritis and avascular necrosis of the right hip, for which he would require another operation that can cost approximately

Rs.2.5 to 3 lacs but learned Tribunal awarded nothing towards future treatment expenses. Also, the appellant suffered 10% disability on account of post traumatic fracture right public rami with mild restriction of right hip joint movements with limping of right leg, which will keep him uncomfortable the whole life whereas learned Tribunal awarded only Rs.20,000/- on that count.

No doubt, the appellant suffered grievous injuries for which he had to undergo an operation. However, no prescription / certificate of the doctor was tendered in evidence to prove that he was advised any kind of further surgery in near future. The appellant is working in Maruti Suzuki India Limited Gurgaon. He could not produce any document to show that he had suffered any loss of income or was not paid salary for the period when he was hospitalised or confined to bed during follow up treatment. As per the bills/ receipts Ex.P28 to Ex.P63, the total expenses spent on treatment and medicines came to Rs.49,190/-, out of which a sum of Rs.25,570/- was reimbursed by his company and the remaining amount of Rs.24,000/- was allowed to him by learned Tribunal.

PW6 Dr.Subhash Sindhu, who proved the disability certificate Ex.P5, deposed that appellant suffered 10% disability on account of post traumatic fracture right public rami with mild restriction of right hip joint movement with limping of right leg. In cross examination he admitted that the disability would reduce upto 3% with physiotherapy and passage of time. Therefore, the amount of Rs.20,000/-

allowed under this head is very much adequate. Similarly, the amount of Rs.80,000/- allowed under the head of pain and suffering, special diet, attendant, loss of income and transportation etc. calls for no interference. Anyhow, keeping in view the nature of injuries, disability and the hospitalisation period of the appellant, a sum of Rs.20,000/- is allowed towards loss of enjoyment and amenities.

Accordingly, the enhanced amount of Rs.20,000/- shall be paid to the appellant by the Insurance Company within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation.

In the above premises, the present appeal is partly allowed and the impugned award is modified as noticed above.

12.2.2016
gsv

(SNEH PRASHAR)
JUDGE