

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 356 of 2011 (O&M)
Date of Decision : 08.04.2016

Sudarshan Mittal

.....Appellant

Versus

Resham Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Abhishek Arora, Advocate
for the appellant.

Mr. Vishal Chaudhari, Advocate
for respondent no. 3-Insurance Company.

None for respondent no. 4.

Surinder Gupta, J.

This is appeal by claimant-Sudarshan Mittal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Patiala (later referred to as 'the Tribunal') for the injuries suffered by him in a motor vehicle accident with truck No. PB-12-C-1735 (later referred to as 'the offending vehicle').

2. Case of claimant, in brief, is that on 12.01.2007 at about 08.15 p.m., he was coming from DCW towards Indira Colony, Patiala in his car bearing registration No. PB-11-M-0544. When he reached near Railway Crossing No. 16, the offending vehicle came from the opposite side and hit the car of claimant as a result of which he suffered multiple injuries.

3. Respondent no. 4-transferee of the offending vehicle filed reply wherein he denied the accident. Respondent no. 3 (New India Assurance Company Ltd.) also contested claim

petition denying its liability to pay the compensation.

4. On the basis of evidence on record, the Tribunal concluded that accident was caused by respondent no. 1 while driving the offending vehicle in a rash and negligent manner. It was also observed that driver of the offending vehicle was not holding any driving licence and with these observations Insurance Company was allowed recovery rights to recover amount of compensation paid to the claimant.

5. While assessing quantum of compensation, the Tribunal took into account the bills/cash memos (Ex. P-2 to Ex. P-104) amounting to ₹23,700/-. A sum of ₹6000/- was allowed as compensation for pain and suffering and ₹5000/- towards unseen expenses.

6. Learned counsel for the appellant has argued that claimant while appearing as PW-1 has stated that he suffered fracture in his right leg. He has placed on record bills of medicines purchased by him. The Tribunal has accepted his contention in this regard. A person who suffers fracture on the leg is unable to work for considerable long time and even after joining of fracture he requires consistent medical care, physiotherapy etc. Claimant has placed on record the bills of OPD fee for his physiotherapy in Punjabi University, Patiala upto the month of September, 2007, which shows that he had been getting treatment even after 7/8 months of the accident. The Tribunal has not taken into account this fact and compensation of ₹5000/- allowed towards unseen expenses is on very lower side. The Tribunal was required to assess compensation under

all the conventional heads like loss of income, pain and suffering, nutritious diet, attendant charges, future medical expenses etc.

7. Learned counsel for respondent no. 3-Insurance Company has argued that the Tribunal, besides medical expenses proved on record, has allowed compensation of ₹11,000/- to claimant which is just and reasonable amount of compensation. Claimant has not suffered any disability either permanent or temporary and there was no loss of future income to claimant, as such, compensation allowed by the Tribunal calls for no further enhancement.

8. On giving careful thought to respective submissions of learned counsel for the parties, I am of the considered opinion that the Tribunal has committed error while computing the amount of compensation by not taking into account all the conventional heads like loss of income, nutritious and special diet, attendant charges, transportation charges, future medical expenses etc.

9. The Tribunal has taken note of the fact that claimant suffered fracture of right leg and steel plate had to be inserted to mend the fracture. In normal course, a fracture of bone usually takes 8 to 12 weeks to reunite. During the period, claimant, a depot holder, had suffered loss of income, which keeping in view the wages of lowest earning group i.e. a daily wager, is assessed ₹3000/- per month and for a period of 3 months a compensation of ₹9000/- is allowed on this score. For each conventional head like nutritious and special diet, attendant charges, transportation charges, claimant is allowed compensation of

₹5000/-. Claimant is also allowed compensation of ₹10,000/- towards future medical care and expenses and amount of compensation towards pain and sufferings as allowed by the Tribunal i.e. ₹6000/- is on lower side and is enhanced to ₹10,000/-.

10. In view of my discussion above, the compensation to which claimant is entitled works out as follows:-

Sr. No.	Heads	Calculation
(i)	Medical expenses already awarded by the Tribunal	₹23700
(ii)	Loss of income @ ₹3000/- per month for three months	₹9000
(iii)	Pain and suffering	₹10000
(iv)	Nutritious diet	₹5000
(v)	Attendant charges	₹5000
(vi)	Transportation charges	₹5000
(vii)	Future medical expenses	₹10000
Total		₹67700

11. As a sequel of my above discussion, the appeal is accepted. Award of the Tribunal is modified and the compensation allowed to claimant is enhanced from ₹34,700/- to ₹67,700/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petitions till actual realization. Being insurer of the offending vehicle the aforesaid amount of compensation will be paid by respondent no. 3-Insurance Company at first instance and may recover the same from respondents no. 1 and 4.

April 08, 2016
jk

(SURINDER GUPTA)
JUDGE