

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

**FAO No.10419 of 2014.
Date of Decision: 17.03.2016.**

Mayank Dua

....Appellant.

VERSUS

Puneet Kumar and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. G.S. Guri, Advocate for the appellant.

Mr. Sunil K. Rana, Advocate for
Mr. Amit Jaiswal, Advocate for respondent No.1.

Respondent No.2 exparte vide order dated 06.11.2015.

Mr. D.K. Prajapati, Advocate for respondent No.3.

SNEH PRASHAR, J.

This appeal was filed by appellant-claimant Mayank Dua seeking enhancement of compensation of Rs.2,08,000/- alongwith interest at the rate of 6% per annum from the date of filing the petition till realization, awarded to him by learned Motor Accident Claims Tribunal, Ludhiana (for short, "the Tribunal") vide award dated 24.05.2014 passed in MACT Case No.15 of 2013 on account of injuries sustained by him in a vehicular accident on 19.08.2012.

Power of Attorney filed on behalf of respondent No.3 in Court

today is taken on record.

The submissions made by Mr. G.S. Guri, learned counsel for the appellant, Mr. Sunil K. Rana, learned counsel for respondent No.1 and Mr. D.K. Prajapati, learned counsel for respondent No.3-insurance company have been heard and record perused.

Learned counsel for the appellant argued that learned Tribunal erred in assessing the income of the appellant whereas he had tendered in evidence his joining letter Ex.P2 according to which he was drawing salary of Rs.30,000/- per month and as per his income tax return Ex.P3 and bank statement Ex.P4 for the month of July, on having achieved his professional target he received Rs.60,075/- as incentive. The appellant suffered grievous injuries but has not been adequately compensated on account of pain and suffering, loss of amenities of life and expenditure on transportation etc. He is still under treatment and will have to undergo an operation in near future for removal of the rod inserted in his leg but learned Tribunal awarded nothing towards future medical expenses etc.

On the other hand, learned counsel for the respondents submitted that the compensation awarded by learned Tribunal covers all pecuniary and non pecuniary counts on which the appellant had suffered loss due to the injuries sustained by him.

It is no longer a contentious issue that appellant Mayank Dua suffered injuries in a motor accident caused by respondent-Puneet Kumar while driving maruti car bearing registration No.PB-10DG-8590 in a rash and negligent manner. The medical record of the appellant Ex.CW5/A

prepared at P.G.I., Chandigarh indicates that he suffered one grievous injury i.e. fracture left femur for which he was operated upon. The total amount of medical bills Ex.P10 to Ex.P20 of Rs.1,58,000/- was allowed to the appellant on account of expenditure on treatment and that calls for no intervention. In addition to the said amount, learned Tribunal allowed a sum of Rs.50,000/- on account of pain and suffering, transportation, loss of amenities and loss of prospective life. The said amount certainly needs to be bifurcated.

The discharge card Ex.P9 indicates that the appellant remained hospitalized w.e.f. 20.08.2012 to 25.08.2012. Considering the nature of injury suffered by the appellant and period of hospitalization, he is entitled to Rs.20,000/- on account of pain and suffering undergone by him. On account of expenditure on his own transportation and transportation and boarding-lodging of his family members who were attending on him, a further amount of Rs.10,000/- is allowed. Because of the injuries suffered by the appellant, he may not have been able to attend to his normal duties for about eight weeks. Since he was privately employed, as per his salary certificate, he was drawing Rs.15,000/- per month. As such, an amount of Rs.30,000/- is allowed to the appellant on account of loss of income. Indeed, the appellant will have to undergo an operation for removal of the rod fixed in his leg, so considering the future expenditure on treatment, an amount of Rs.10,000/- is allowed to him. The rate of interest allowed by learned Tribunal shall remain the same. Out of the above amount of Rs.70,000/-, the appellant has already been paid Rs.50,000/-.

Accordingly, the appeal filed by the appellant-claimant is partly allowed and the award dated 24.05.2014 passed by learned Tribunal is modified. The enhanced compensation of Rs.20,000/- shall be deposited by respondent No.3- insurance company 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

17.03.2016.
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