

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

**FAO No.422 of 2014
Date of Decision-20.10.2016**

Manjit Viridi ... Appellant

Versus

Raj Kumar and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sudesh Sahi, Advocate for
Mr. Arvind Kashyap, Advocate for the appellant.

None for respondents No.1 and 2.

Mr. R.S. Sharma, Advocate for respondent No.3.

RAJ MOHAN SINGH, J.

[1]. This is an appeal filed by the claimant-appellant for enhancement of compensation which was awarded by the Motor Accident Claims Tribunal, Pathankot (for short 'Tribunal').

[2]. Appellant-claimant alleged that on 31.03.2011, accident took place at about 6.00 p.m. One Tilak Raj went to Pathankot for some personal work along with his friend Ajay Mahajan. At about 7.30 p.m, Tilak Raj and Ajay Mahajan were coming back in the car, when they reached near Indora More (Sujanpur) at about 7.45 p.m, then they saw that one truck was going with fast speed ahead the car. The driver of the truck suddenly made a sharp turn and the truck came over the divider of the road. Tilak Raj stopped the car and saw that one motorcyclist was fixed between the rear tyre of the truck and the divider. The motorcycle was lying side by side in the middle. Motorcyclist was crying with pain and he disclosed his

name as Manjit Viridi. He suffered injuries on his both legs. He was removed to hospital by said Tilak Raj. The name of the driver of the offending truck was known to be Raj Kumar. FIR was registered in Police Station, Indora. Claimant suffered permanent disability and could not lead his natural life. Marital obligations were also adversely affected. Claimant could not undertake normal job and could not drive scooter/motorcycle. On account of overall loss, claimant filed a claim petition before the Tribunal.

[3]. Tribunal held under issue No.1 that the accident took place due to rash and negligent driving of driver of the offending vehicle. The claimant was serving as Quality Assurance Officer-cum-Management Executive. The Manager of the hospital namely Vikas Arora was examined as AW1, who proved the hospitalization of the claimant in the hospital on 01.04.2011 and was discharged on 09.04.2011. Bills and other documents were proved by the witness. The total amount of bill came out to be Rs.2,65,618/-. The disability of the claimant was found to be 80%, but no member of Medical Board was examined who had issued the disability certificate. The salary certificate was also produced on record, but the partner/proprietor of the firm was not examined to prove the salary. Tribunal did not rely upon the salary certificate Ex.C-67 and permanent disability certificate Ex.C-68. Since the claimant underwent mental pain and suffering, therefore, claimant was entitled an amount of Rs.1,00,000/- over and above an amount of Rs.2,65,618 towards hospitalization, pain and suffering,

transportation, special diet, mental agony, loss of future prospectus of employment, expenditure incurred towards attendant and all other counts. In this way, total amount of Rs.3,65,618/- was calculated. The amount was payable by the respondents jointly and severally along with interest @ 9% per annum from the date of filing of the claim petition till final realization of the amount.

[4]. I have considered the submissions made by learned counsel for the parties.

[5]. So far as calculation of amount of all the bills is concerned, the same is correctly assessed to be Rs.2,65,618/-. However in prolong illness and treatment, some unforeseen expenditure cannot be ruled out. It would be just and appropriate to add a certain amount towards unforeseen expenses thereby making the aforesaid amount to be Rs. 2,75,000/-. Compensation towards pain and suffering, transportation, special diet, mental agony, loss of future prospectus of employment and attendant charges etc would require to be assessed independently. Tribunal has awarded a lump sum amount of Rs.1,00,000/- under these heads which in considered opinion of this Court needs to be suitably enhanced. Keeping in view the nature of injuries suffered by the claimant and even if, salary certificate and permanent disability which could not be proved on record, still pain and suffering, mental trauma and agony, loss of future prospectus of employment cannot be ruled out. It would be just and appropriate to

award an amount of Rs.1,00,000/- towards pain and suffering, an amount of Rs.20,000/- towards special diet, an amount of Rs.10,000/- towards transportation, an amount of Rs.1,00,000/- towards mental trauma and agony, an amount of Rs.20,000/- towards attendant charges and an amount of Rs.50,000/- towards future prospectus of employment. In this way, an amount of Rs.3,00,000/- would be just and appropriate under the aforesaid consolidated heads as against Rs.1,00,000/- granted by the Tribunal. In view of aforesaid, total amount of compensation would come out to be Rs.5,75,000/- (2,75,000 + 1,00,000 + 20,000 + 10,000 + 1,00,000 + 20,000 + 50,000).

[6]. In view of above, the amount of compensation is worked out as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in appeal	Difference
1	Medical expenses	2,65,618/-	2,75,000/-	9382/-
2	Pain and suffering, Special diet, Transportation, Mental agony, Attendant charges and Loss of future prospectus of income	1,00,000/-	3,00,000/- (1,00,000 + 20,000 + 10,000 + 1,00,000 + 20,000 + 50,000 = 3,00,000)	2,00,000/-
3	Total Compensation	3,65,618/-	5,75,000/-	2,09,382/-

[7]. The enhanced amount i.e. Rs.2,09,382/- shall carry interest @ 9 % per annum from the date of filing of claim petition till

final realization of the amount. The aforesaid amount would be payable by the respondents jointly and severely.

[8]. With the aforesaid modification, the present appeal stands disposed of.

(RAJ MOHAN SINGH)
JUDGE

20.10.2016
Prince

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No