

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

FAO No.4748 of 2004

Date of decision : 27.03.2017

Amrik Singh

.....Appellant

Versus

Chhote Lal and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sandeep Arora, Advocate for appellant.

Ms. Promila Nain, Advocate for respondent No.1.

Mr. Gopal Mittal, Advocate for respondent No.2.

DARSHAN SINGH, J.

The present appeal has been preferred by appellant-claimant Amrik Singh against the award dated 15.10.2003 passed by the learned Motor Accidents Claims Tribunal, Ludhiana (hereinafter called the “Tribunal”) in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (“Act” - for short) vide which the appellant-claimant has been awarded compensation to the tune of ₹35,000/- on account of the injuries suffered by him in the motor vehicular accident, which took place on 22.03.2002.

2. The present appeal has been preferred by the appellant-

claimant for enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and have gone through the record of the case carefully.

4. Learned counsel for the appellant-claimant contended that the learned Tribunal has not awarded any compensation to the claimant towards special diet, attendant charges, transportation charges, pain and suffering and loss of income during the period of treatment. He contended that the claimant has suffered 10% disability as a result of fracture of tibia left side but the learned Tribunal has awarded only ₹10,000/- on account of the disability suffered by the claimant including the pain and suffering and loss of income *etc.* He contended that the learned Tribunal was required to assess the amount of compensation payable to the claimant separately under each head. Thus, he contended that the learned Tribunal has not awarded the just amount of compensation to the claimant.

5. On the other hand, learned counsel for respondents contended that the appellant-claimant has only suffered the temporary disability of 10%. The compensation awarded by the learned Tribunal under this head *i.e.* ₹10,000/- is just and reasonable. The learned Tribunal has also taken into consideration the other heads for the assessment of the amount of compensation payable to the claimant. Thus, they contended that there is no scope of any further enhancement in the amount of compensation.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has awarded a lump sum amount of

₹35,000/- as compensation, which included ₹24,575/- as medical expenses as per the bills and ₹10,000/- on account of disability, treatment and pain and suffering and loss of earning. The learned Tribunal has not assessed the compensation separately under all the relevant heads. Thus, the approach of the learned Tribunal in determining the amount of compensation was not proper. The learned Tribunal has also not awarded any compensation to the claimant towards special diet, attendant charges and transportation charges etc.

8. From the medical evidence brought on record it comes out that appellant-claimant Amrik Singh was having the fracture of tibia left side. He remained admitted in Karan Hospital, Bharat Nagar, Ludhiana with effect from 22.03.2002 to 29.03.2002. During this period, he underwent surgery. PW2 Dr. Suresh Kumar has proved the disability certificate Ex.PW2/1 and deposed that the claimant had suffered 10% disability which was temporary in nature. In the cross-examination he stated that the disability can be cured with the passage of time and treatment.

9. The learned Tribunal has awarded a total sum of ₹10,000/- on account of the disability of 10%. In view of the fact that the appellant-claimant has suffered only temporary disability, which was liable to be cured with the passage of time and treatment, the award of ₹10,000/- in lump sum seems to be reasonable. The learned Tribunal has assessed the medical expenses to be ₹24,575/- as per the bills produced. To make it a round figure, we can take it as ₹25,000/- for medical and treatment charges.

The claimant has suffered fracture tibia and also underwent an operation. So, he must have suffered lot of pain and suffering on account of the injuries suffered by him. Thus, he shall be entitled to a sum of ₹7000/- on account of pain and sufferings.

10. As per the medical evidence, the appellant-claimant has suffered fracture, so he must have required the special protein diet. Therefore, he will be entitled to a sum of ₹2000/- on account of special diet. He remained hospitalized for a period of eight days and also underwent surgery. He must have required the services of the attendant at least for a period of one month, so he will be entitled to a sum of ₹2000/- for attendant charges. The claimant shall also be entitled to ₹1000/- towards transportation charges.

11. As already mentioned, the claimant has suffered fracture tibia. He remained hospitalized for a period of eight days and has also underwent surgery, so he might not had been able to resume his work at least for a period of two months. As per the case of the claimant, he was having a small scale business of making phenol at his residence. He was a self-employed and was earning ₹5000/- per month. But the claimant has not produced any documentary evidence regarding his income from the business. However, the income of the claimant can safely be taken to ₹4000/- per month. So, he will also be entitled to a sum of ₹8000/- as compensation on account of loss of income during the period of hospitalization and subsequent recovery. In this way, the claimant shall be

entitled to the compensation as below:-

Sr. No.	Heads of compensation	Amount of compensation (in rupees)
1.	Medical and treatment charges	25,000
2.	Temporary disability to the extent of 10%	10,000
4.	Pain and suffering	7000
5.	Special diet	2000
6.	Attendant charges	2000
7.	Transportation charges	1000
8.	Loss of income	8000
Total		55,000

12. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellant-claimant is enhanced to ₹55,000/- from ₹35,000/- as awarded by the Tribunal. The appellant-claimant shall also be entitled to interest on the enhanced amount of compensation at the rate as awarded by learned Tribunal, from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation shall remain the same as determined by the learned Tribunal in the main award.

27.03.2017
sunil yadav

(DARSHAN SINGH)
JUDGE

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