

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

FAO No. 4738 of 2005 (O&M)

DATE OF DECISION : 24.10.2017

Pankaj Kumar

.... APPELLANT

Versus

Rajesh Kumar and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Jaideep Verma, Advocate,
for the appellant.

Mr. Suman Jain, Advocate,
for respondent No.2-Insurance Company.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 25.07.2005 passed by the Motor Accident Claims Tribunal, Rupnagar (for short 'the Tribunal').

The file of this case was burnt and from the salvaged record of the partially burnt case, it was reconstructed subject to all just exceptions and further verification.

On 01.04.2000, appellant Pankaj Kumar suffered injuries in a motor vehicular accident. He was a passenger in a Maruti van bearing registration No. CH-01M-9605 which was being driven by Kapur Singh.

The said vehicle struck against a tree and the appellant suffered injuries, which ultimately resulted into 42% permanent disability of his left lower limb.

A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act'), was filed.

The Tribunal, as per the second schedule attached to Section 163-A of the Act, awarded a sum of ₹ 1,34,000/-.

Learned counsel for the appellant argued that the Tribunal has not awarded compensation for pain and suffering for grievous injuries, as mentioned in the second schedule attached to Section 163-A of the Act.

Learned counsel for respondent No.2 – Insurance Company could not raise any serious objection to the awarding of compensation for pain and suffering.

As per the second schedule attached to Section 163-A of the Act, under the heading of 'General damages in case of injuries and disabilities' a sum of ₹ 5,000/- should be awarded for pain and sufferings on account of grievous injuries.

In view of the above, the award dated 25.07.2005 is modified to the extent that over and above the amount awarded by the Tribunal, a sum of ₹ 5,000/- is awarded to the appellant on account of pain and sufferings suffered by him due to grievous injuries in the accident.

The appellant shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim

petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

October 24, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes