

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

FAO No.4655 of 2010

Date of Decision: 10.8.2017

Des Raj ... Appellant

Versus

Sunil Kumar and others ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Sandeep Panwar, Advocate for the appellant

Mr.Raja B.S.Jain, Advocate for respondent no.3

RAJIV NARAIN RAINA, J. (Oral)

1. The accident left the appellant with permanent disability to the extent of 8% in relation to the whole body. The compensation awarded by the Motor Accident Claims Tribunal, Kaithal is ₹ 20,000. The injuries caused to the appellant are fractures of ribs and left *iliac crest* with restriction of movement with accompanying pain, as assessed by the Medical Board and the doctor was duly examined in the witness box in support of the medical record. Admittedly, the claimant remained indoor patient in General Hospital, Kaithal for seven days of treatment for the injuries suffered in the motor accident. As an avocation he earned a living doing manual work as labour.

2. Learned counsel for the appellant submits that the compensation awarded by the Tribunal is on the much lower side and should be enhanced by a reasonable amount. It is argued that the Tribunal has grossly erred in not granting any compensation for expenses incurred towards medical treatment in General Hospital, Kaithal as an indoor patient from the date of accident i.e. 26th December, 2008 to 2nd January, 2009. It may be noted that the rates in the General Hospital are

higher than imagined by the Tribunal. It cannot be said that the claimant must not have spent any money at all out of his pocket on account of sundry expenses including on special diet and transportation of family while he was admitted in the Hospital recovering from his wounds.

3. I have heard learned counsel for the parties.

4. In my considered view, the appropriate compensation for the multiple injuries suffered by the appellant, some of which are permanent in nature, should be marginally increased to make compensation appear just and proper, and therefore, it is deemed fit in the facts and circumstances to enhance the compensation to ₹ 35,000 with additional sum of ₹ 5000 towards medical costs and sundry expenses which must have been incurred by the appellant during the treatment and immediately afterwards, if not in the long run.

5. Accordingly, the appeal is partly allowed, the award dated March 10, 2010 passed by the MACT, Kaithal is modified to bring total compensation in a sum of ₹40,000/- to the appellant-Des Raj. The Insurance Company will have recovery rights as granted by the Tribunal. The difference in compensation as modified shall be deposited before the Tribunal without delay for payment to the claimant.

10.8.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No