

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

**FAO No.3279 of 2011
Date of decision : 24.04.2017**

Harjinder Singh

.....Appellant

Versus

Charanjit Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. R.K. Chauhan, Advocate for appellant.

None for respondents No.1 and 2.

Mr. Eklavya Kumar Darshi, Advocate for
respondent No.3-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-claimant against the award dated 10.12.2010, passed by learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter called the “Tribunal”), whereby in the claim petition filed by the appellant-claimant under Section 166 of the Motor Vehicles Act, 1988 (for short – the “Act”) the appellant-claimant has been awarded compensation to the tune of ₹67,000/- on account of the injuries suffered by him in the motor vehicular accident which took place on 11.03.2008.

2. The present appeal has been preferred by the appellant-claimant for enhancement of award of compensation.

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

4. Initiating the arguments, learned counsel for the appellant-claimant contended that appellant-claimant has suffered severe injuries on the sensitive part of his body. He remained hospitalized twice and also underwent operation but the learned Tribunal has awarded very less amount towards pain and sufferings. He further contended that the claimant was not able to work for a period of three months but the claimant has been awarded only ₹5000/- towards loss of income. No amount has been awarded to the claimant towards the special diet. Thus, he contended that the compensation awarded to the appellant-claimant is highly inadequate.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has taken into consideration all the relevant heads to determine the amount of compensation. Just amount of compensation has been assessed under all the relevant heads. There is no evidence to show that the claimant was not able to work for a period of three months. Thus, he contended that there is no scope for enhancement of the amount of compensation.

6. I have duly considered the aforesaid contentions.

7. As per the medical evidence, to be more specific the statement of AW-1 Dr. Pawan Kumar Miglani, the appellant-claimant was operated for upper jaw on 17.03.2008. He remained admitted in the hospital with effect from 13.03.2008 to 21.03.2008. Stitches were applied on the right eyelid, chin and thumb. The appellant-claimant was again remained admitted in the hospital with effect from 22.05.2009 to 27.05.2009. Thus, the appellant-claimant has suffered injuries on the sensitive part of his body. He remained hospitalized for number of days on two occasions and also

underwent surgery. So, the claimant must have suffered lot of pain and suffering. In my opinion the claimant shall be entitled to a sum of ₹20,000/- on account of pain and suffering as against ₹10,000/- awarded by the learned Tribunal.

8. The learned Tribunal has awarded compensation towards loss of income to the claimant only for the period during which he remained hospitalized. This is not the correct approach as a person may not be able to work even after his discharge from the hospital and thus the loss of income may continue. So, the appellant-claimant shall be entitled to a sum of ₹15,000/- as loss of income keeping in view the nature of injuries suffered by him. The learned Tribunal has not awarded any amount to the appellant-claimant towards special diet and attendant charges. The appellant-claimant was operated for upper jaw. He might have required liquid diet. He also might have required the help of the attendant, so he will be entitled to a sum of ₹5000/- for special diet and attendant charges. In this way, the amount of compensation payable to the appellant-claimant comes as under:-

Sr. No.	Heads of compensation	Amount of compensation awarded by the Tribunal (<i>in rupees</i>)	Amount of compensation enhanced by this Court (<i>in rupees</i>)
1.	Medicines and treatment charges	50,000	50,000 (no change)
2.	Pain and suffering	10,000	20,000
3.	Loss of income	5000	15,000
4.	Transportation charges	2000	2000 (no change)
5.	Special diet and attendant charges	--	5000
Total		67,000	92,000

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellant-claimant is enhanced to ₹92,000/- from ₹67,000/- as awarded by the Tribunal. The appellant-claimant shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount 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.

24.04.2017*sunil yadav***(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No