

207.

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

FAO-3339-2011

Date of decision: 09.05.2017

MADAN LAL

... Appellant

VS

HONEY @ MONU AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Abhinav Sood, Advocate,
for Mr. Vikram Singh, Advocate,
for the appellant.

Mr. M.B. Jain, Advocate,
for respondent No.2.

HARI PAL VERMA, J.

The present appeal has been filed by the injured-claimant, namely, Madan Lal, seeking enhancement in compensation in the award dated 15.02.2011 passed by the Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal').

Briefly stated, the appellant-claimant (herein referred as 'claimant') filed a claim petition under Sections 166 and 140 of the Motor Vehicles Act, for grant of compensation on account of injuries suffered by him in a motor vehicular accident which took place on 20.01.2010. As per the claim petition, on 20.01.2010, the claimant was going from Jattal Road, Panipat towards New Model Town, Panipat on

his motorcycle Hero Honda Splendor bearing registration No.HR06Q-

0130 on a moderate speed. When he reached in front of Pitloom factory of Mohan Lal, in the meantime, a car, which was being driven in a rash and negligent manner, without blowing any horn, came from back side and hit the motorcycle of the claimant. As a result of which, he fell down along with his motorcycle and received multiple and grievous injuries on various parts of his body including both legs, right arm, elbow and left ribs and he got fractures of his right elbow, inferior pubic ramus right side and 4th, 5th and 6th rib left side in the said accident. The driver of the offending car parked his car and came to the injured. The injured saw the car number as HR06L-1967 and asked the name of the driver, who told his name as Honey son of Bishamber Nath Khurana. The said accident was also witnessed by one Mukesh son of Ram Bharoshe. He was taken to the Civil Hospital, Panipat by the eyewitness-Mukesh. The claimant was medico-legally examined vide MLR No.42/SR/PNP/2010 dated 20.01.2010 and on the same day, he was shifted to Sabharwal Hospital, Model Town, Panipat, where he remained admitted upto 22.01.2010 and thereafter also, he remained bed ridden due to multiple and grievous injuries and fractures. In this respect, an FIR was also registered against the driver of the offending vehicle. The claimant further stated that prior to the accident, he was hale and hearty but due to the accident, he became permanently disabled. He has spent huge amount on his treatment and has claimed ₹5 lakhs as compensation.

On notice, respondent No.1 (driver-cum-owner of the offending vehicle) appeared and contested the claim petition denying the accident and pleaded that a false case has been registered against him. Respondent No.2-Insurance Company also denied the factum of accident. It denied its liability to indemnify the insured or the claimant as there was violation of terms & conditions of insurance policy.

The Tribunal held the driver of the offending vehicle to be responsible for the accident and vide award dated 15.02.2011, granted compensation of ₹1,63,100/- along with interest @ 6 % per annum. The detail of compensation granted under various heads reads as under:-

“1.	Pain and suffering	Rs.40,000/-
2.	Loss of income	Rs.60,000/-
3.	Special diet and attendant	Rs.20,000/-
4.	Transportation	Rs.15,000/-
5.	Medicines & Other Expenses	Rs.26,100/-
6.	Disability	Rs.2,000/-
	Total	Rs.1,63,100/-”

Dissatisfied with the aforesaid award 15.02.2011, the claimant-injured (appellant herein) has filed the present appeal for enhancement of compensation.

Learned counsel for the appellant has argued that the Tribunal has awarded less compensation. The Tribunal has ignored the fact that the claimant remained as an outdoor patient, and this fact is corroborated from the version of PW4-Dr. Sudhir Sabhawal, who stated that the claimant came in Sudhir Sabharwal Hospital, Panipat as OPD on 25.07.2010 for removal of pins and wire from the elbow as fracture had united and pins were troubling him. The Tribunal has

further ignored the fact that the claimant has 2% disability i.e. united fracture inferior public ramus right side, united fracture 4th, 5th and 6th left ribs with united fracture olecanon on right side.

I have heard learned counsel for the parties.

Admittedly, the accident took place on 20.01.2010 by the rash and negligent driving of respondent No.1 and in the said accident, the claimant received multiple and grievous injuries. Though for the injuries suffered by the claimant in the accident, the Tribunal has awarded compensation under various heads i.e. pain and suffering, loss of income, special diet and attendant, transportation medicines & others expenses and disability, however, this Court finds that the loss of income assessed by the Tribunal requires a slight modification. Due to the accident, he remained as an outdoor patient also, which fact was proved from the statement of Dr. Sudhir Sabharwal as he came to him on 25.07.2010, whereas the accident took place on 20.01.2010. He could not do any work for about six months. Before the accident, the claimant was hale and hearty and doing a *kabari* business. He was an income tax assessee and as per income tax returns (Ex.P53) for the assessment year 2009-10, he was earning ₹1,49,700/-. So, the Tribunal assessed that he might be earning ₹10,000/- per month. This Court makes a slight modification to that very monthly income by adding ₹1,250/- to ₹10,000/- and takes the monthly income as ₹11,250/-. In this manner, the loss of income for 6 months comes to ₹67,500/- instead of ₹60,000/- as assessed by the Tribunal. Accordingly, an

increase of ₹7,500/- is made over and above the amount already awarded by the Tribunal.

With the aforesaid modification, the appeal stands disposed of.

(HARI PAL VERMA)
JUDGE

09.05.2017
sanjeev

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