

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

F.A.O. No. 4058 of 2012 (O&M)

Date of Decision:- 27.03.2017

Amrik Singh

....Appellant

vs.

Jatinder Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Ms. Mansi Bansal, Advocate for
Mr. R.C. Gupta, Advocate,
for the appellant.

Mr. Sandeep Arora, Advocate,
for respondent No.1.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.2.

DAYA CHAUDHARY, J.

The present appeal has been filed by the claimant for modification of award dated 20.4.2012 passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'The Tribunal') whereby the claimant has been awarded compensation to the tune of ₹ 2,84,000/-.

Briefly, the facts of the case as made out by the appellant are that a claim petition under Section 166 of the Motor Vehicles Act, for grant of compensation to the tune of ₹ 10 lac was filed on account of injuries received by claimant-Amrik Singh in a motor vehicular accident which

took place on 1.5.2011. As per claim petition, claimant along with one Darshan Singh was going to Village Bhatian via Morinda to Chamkaur Sahib on the motorcycle bearing registration no. PH-10-CP-7723 which was being driven by Darshan Singh. At about 6.30 p.m., both of them reached in the area of village Rurki Hiranahad towards Chamkaur Sahib and a car bearing registration no. HR-36-L0060 being driven in a rash and negligent manner with high speed came from the opposite side and hit the motorcycle due to which both of them fell down on the road and received multiple grievous injuries. Claimant-Amrik Singh and Darshan Singh were taken to Civil Hospital, Chamkaur Sahib wherefrom, they were referred and taken to PGIMER, Chandigarh with the help of one Parminder Singh.

The claim was contested by the owner and driver of the offending vehicle as well as by the Insurance Company. Separate written statements were filed and preliminary objections regarding maintainability, validity of driving licence, fitness certificate and route permit of the car were raised. Claim petition was allowed vide award dated 20.4.2012 and claimant was held entitled for an amount of ₹ 2,84,000/- along with interest @ 9% per annum from the date of institution of the claim petition till realization of the amount.

Feeling dissatisfied with the amount of compensation, the claimant has filed the present appeal for enhancement of compensation.

Learned counsel for the appellant submits that the learned Tribunal has awarded inadequate compensation without considering the permanent disability and nature of injuries suffered by claimant-appellant.

The amount of ₹ 1 lac has been awarded on account of 50% permanent disability which is incorrect as the claimant-appellant, who have been awarded compensation towards 50% permanent disability has been proved to be functional disability. Learned counsel also submits that it has been held by the learned Tribunal that there were multiple fractures suffered by the appellant and a rod was also inserted by the doctors but still no amount has been awarded towards loss of income during long treatment and claimant is also entitled for more compensation. Learned counsel also submits that a less amount has been awarded towards pain and suffering, attendant and special diet as well as transportation. The dispute against said heads is required to be enhanced. At the end, learned counsel for the appellant submits that it has been proved on record by the claimant before the Tribunal that he was 50 years of age and was earning ₹ 15,000/- per month and was looking after his whole family but still neither future prospects has been taken into consideration while awarding compensation on account of permanent disability nor other heads. The amount awarded by the Tribunal is liable to be enhanced.

Learned counsel for the respondents have opposed the submissions made by learned counsel for the appellant on the ground that the award is well reasoned and is based on proper appreciation of evidence. It cannot be said in any manner that less compensation has been awarded. Learned counsel also submits that it was a case of head on collusion between two vehicles and in such situation, the driver of both the vehicles should have been held responsible. They have also relied upon a judgment passed in **Bijoy Kumar vs. Vidhyadhar Dutta and others, 2006 (2) Vol.-**

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After hearing the arguments of learned counsel for the parties and on perusal of award passed by the Tribunal, it is clear that a total amount of ₹ 2,84,000/- has been awarded. The appellant-claimant has been awarded an amount of ₹ 2000/- for attendant and special diet charges, ₹ 2000/- under the head of transportation and ₹ 1,00,000/- towards disability. As far as amount for medical bills and permanent disability is concerned, no enhancement is required. However, the amount awarded towards attendant and special diet is only ₹ 2000/- and the same is enhanced to ₹ 12,000/- and amount awarded towards transportation charges i.e. ₹ 2000/- is also enhanced to ₹ 12000/-. Similarly, amount awarded towards mental agony is also on lesser side i.e. ₹ 2000/- which is being enhanced to ₹ 12,000/-. The claimant has also been awarded an amount of ₹ 2000/- towards pain and suffering by considering the nature of injuries, age and also by considering the permanent disability to the extent of 50%, the amount awarded towards pain and suffering is enhanced from ₹ 2000 to ₹ 14,000/-. Hence, the enhanced amount against different heads comes to ₹ 50,000/- in total. An amount of ₹ 2,84,000/- has already been awarded by the Tribunal and after adding the amount of enhancement i.e. ₹ 50,000/-, total comes to ₹ 3,34,000/-.

Accordingly, the present appeal is partly allowed and an amount of ₹ 50,000/- is enhanced in addition to earlier amount which has been awarded by the trial Court i.e. ₹ 2,84,000/-. The claimant shall also be entitled to the same rate of interest on the enhanced amount as was granted earlier by the Tribunal. The enhanced amount be paid to the claimant within

a period of two months from the date of receipt of certified copy of the order.

March 27, 2017 poonam	(DAYA CHAUDHARY) JUDGE
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Whether speaking/reasoned	Yes
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Whether reportable	Yes
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