

213

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

**FAO No. 10491 of 2014 (O&M)
Decided on: 09.08.2017**

Manjit Singh**Appellant**

versus

Harpreet and others**Respondents**

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. V.S.Punia, Advocate,
for the appellant.

Mr. D.R.Bansal, Advocate
for respondent No. 3-Insurance Company.

Rajbir Sehrawat, J. (Oral)

1. This is an appeal filed by the injured claimant challenging the award of Motor Accident Claims Tribunal whereby he was awarded an amount of ₹ 3,50,941/- as compensation for the injury suffered by him in the accident.
2. Brief facts as claimed by the appellant in the claim petition are that on 07.10.2012, the appellants along with his friend Naveen Kumar was going from Narwana to his village Kabarchha on a motorcycle. At about 11.30 AM, when they reached the village Doomer Khan on Narwana Jind road, the offending vehicle; Tata 1109; bearing registration No. HR-57-3886 came from the opposite side being driven rashly and negligently by respondent No. 1. On seeing, the vehicle, claimant-Manjit Singh lowered down the speed of motorcycle and came on the extreme left hand side on the road but

still offending vehicle struck against the motorcycle after coming on wrong side of the road. As a result, the occupants of motorcycle fell down and received multiple grievous injuries. They were shifted to General Hospital, Narawana where Naveen Kumar succumbed to the injuries on the way to hospital. Police reached at the spot and also recorded an FIR No. 225 dated 07.10.2012 in the matter. The appellant herein claimed long hospitalization and multiple operations on account of injuries in his leg and on the face and other parts of body. It was claimed by him that he was referred to PGI, Rohtak from Civil Hospital, Narwana in view of his serious condition. Later on, he was admitted in Sarvodaya Hospital, Hisar where he was operated upon.

3. Respondents No. 1 and 2 filed joint written statement. It was pleaded in the written statement that the accident, if any, took place due to sole fault of the claimant and the FIR has been lodged in collusion just to grab money from the respondents. Respondent No. 3 filed separate written statement taking a plea that the driver of the offending vehicle was not having a valid driving license. On merits, it was denied that any accident took place with the vehicle in question.

4. Parties led their respective evidence. After considering the evidence, pleadings and submissions of the parties, the learned Motor Accident Claims Tribunal awarded ₹25,000/- on account of hospitalization, pain and sufferings. Further, the Tribunal awarded ₹10000/- on account of special diet and an another amount of ₹10,000/- on account of transportation charges. In lieu of the

original medicine bills Ex.P-3 to Ex.P-91, the Tribunal awarded an amount of ₹3,05,941/- as treatment expenditure. No amount was awarded on account of loss of income and disability. It was held by the Tribunal that although the appellant had claimed disability but he has failed to produce any disability certificate therefore, he was not entitled to any compensation on that count.

5. While arguing the case, the learned counsel for the appellant has submitted that the claimant remained admitted in Sarvodaya Hospital, Hisar from 07.10.2012 to 25.10.2012, for total 19 days. He was operated upon several times on various parts of body. Therefore, the amount awarded on account of hospitalization and pain and sufferings is too insufficient. He also prayed for enhancement in compensation on account of special diet and for transportation charges. It is his further submission that the Tribunal has restricted the compensation on account of medical treatment only to the original medical bills. However, it is submitted by him that the claimant had to take treatment for several months, therefore, he has to be compensated on that count also. It is further submission of the learned counsel for the appellant that the appellant could not undertake any work for about six months, therefore, he has suffered loss of income for this duration. Hence, he should be compensated on that account also. He claimed that the appellant was doing tuition work, as he is B.Tech; and was earning ₹10,000/- per month from his tuition work.

6. Learned counsel for the respondent-Insurance Company while arguing the case rebutted the argument of the learned counsel for

the appellant and submitted that the amount awarded to the injured is sufficient and it does not call for any enhancement.

7. After hearing the learned counsel for the parties, this Court is of the considered view that since the appellant had suffered serious injuries on multiple parts of body and had to undergo several operations; besides remaining hospitalized for 19 days, therefore, the amount on account of hospitalization and pain and sufferings deserves to be increased. Therefore, the claimant is held entitled to an amount of ₹50,000/- on account of hospitalization and pain and sufferings. Further, the nature of injuries and duration of hospitalization and the kind of treatment taken in the case also shows that the amount awarded on account of special diet and conveyance charges are also on the lower side. Therefore, the same deserves to be enhanced. In view of the facts and circumstances of the case, the compensation on account of conveyance charges is enhanced to ₹15,000/- and the compensation on account of special diet is increased to ₹20,000/-. Since the appellant has placed on record a large number of bills totaling to an amount of ₹3,05,940/-, therefore, it is quite obvious that there would be some other expenses also incurred by him on medicine and treatment regarding which he was not able to obtain the bills or to retain the bills if the same were taken from the quarters concerned. Secondly, the compensation on account of treatment and medicine bills cannot be restricted to the duration of hospitalization only. The injured has to be compensated on account of follow up treatment as well. Since, it cannot be

presumed that injured got fully recovered just after stepping out of the hospital, therefore, taking a moderate view, the compensation on account of medicine and treatment is enhanced to ₹3,25,000/-.

8. Although the claimant has claimed that he was having ₹10,000/- per month as his income from tuition work, yet he has not led any evidence to prove his income. But even in case of students, the Hon'ble Supreme Court has assessed the income upto ₹10,000/- per month. Therefore, taking a very conservative view also; the notional income of the claimant at the time of accident is required to be taken to be ₹6,000/- per month. Since he remained hospitalized for 19 days and also had to take follow up treatment for a long period, therefore, he is awarded a benefit of compensation on account of loss of income for six months. In this way, the claimant is awarded an amount of ₹36,000/- on account of loss of income.

9. In view of the above findings, the appellant-claimant is awarded the compensation in the case as below:-

1 Compensation on account of treatment and expenditure	₹ 3,25,000/-
2 Compensation on account of Hospitalization and pain and sufferings	₹ 50,000/-
3 Compensation on account of Transportation charges	₹ 15000/-
4 Compensation on account of special diet	₹ 20,000/-
5 Compensation on account of loss of income	₹ 36,000/-
Total:-	₹ 4,46,000/-

- 10.However the interest on the amount of compensation is retained as was awarded by the Tribunal.
- 11.In view of the above, the present appeal is allowed and the award of the Motor Accident Claims Tribunal is modified in the above said terms.

9th August, 2017
shabha

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned	-	Yes
Whether reportable	-	Yes