

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

FAO No.2995 of 2013

Date of Decision: 21.08.2017

Ravinder Singh

.....Appellant

Vs

Bansi Lal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashwani Verma, Advocate
for the appellant.

Mr. Radhe Shyam Sharma, Advocate
for respondent Nos.1 and 2.

Mr. Abhinandan Pandhi, Advocate for
Ms. Manjari Nehru Kaul, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.

[1]. The present appeal has been preferred by the injured claimant for enhancement of compensation against the award dated 08.02.2013 passed by the Motor Accident Claims Tribunal, Fatehabad (hereinafter to be referred as 'the Tribunal') vide which an amount of Rs.1,47,262/- was awarded to the appellant along with interest @ 9% per annum from the date of filing the claim petition till final realization of the amount.

[2]. Brief facts are that the accident took place on 06.08.2010 at about 8.00 p.m., when the claimant/appellant along with his father Devi Lal was coming to his village on his

motorcycle. The claimant/appellant was driving the motorcycle and his father was sitting as a pillion rider. When they reached 1 km. ahead from Manawali Minor, the offending vehicle i.e. tractor make Eicher with trolley attached to it, driven by the driver of the offending vehicle came from the opposite direction in a rash and negligent manner without adhering to the traffic rules and it struck against the motorcycle. Due to the accident, both the occupants of the motorcycle received serious injuries on their persons. The claimant/appellant was shifted to General Hospital, Fatehabad by his father where he was medico legally examined and was referred to higher medical institute at Jindal Institute of Medical Science, Hisar where he remained admitted from 06.08.2010 to 24.08.2010. The claimant/appellant was further referred to Fortis Hospital, Mohali and remained admitted there from 25.08.2010 to 30.08.2010. After the discharge, the claimant remained under constant treatment and follow up treatment in number of hospitals i.e. Jindal Institute of Medical Science and Fortis Hospital, Mohali as an outdoor patient and he remained bed ridden for about four months from the date of discharge from the hospital.

[3]. FIR was also registered against the driver of the offending vehicle. The claimant/appellant was 36 years of age at the time of accident and was employed as a Guest Teacher in

Government Private School, Dhani Chuhan against salary of Rs.12,000/- per month. The factum of salary has been proved by PW-3 Smt. Parveen Kumar, PW-3, with reference to appointment letter dated 17.01.2009 (Ex.P11) on record. The joining order of the appellant was also proved on record as Ex.P-12 with reference to attendance register Ex.P-13 and copy of letter of wages of appellant as Ex.P-14.

[4]. After the accident the claimant lost his service. This fact has been specifically pleaded by the claimant while appearing as PW-1. The factum of his salary with reference to the termination of employment after the accident have not been challenged by the Insurance Company in his cross-examination. The factum of earning to the tune of Rs.8,000/- from other pursuits could not be proved on record.

[5]. The Tribunal while assessing the compensation came to the conclusion that the accident took place due to the rash and negligent driving by the driver of the offending vehicle. The Tribunal awarded total amount to the tune of Rs.1,24,763/- towards medical expenses and thereafter proceeded to grant an amount of Rs.10,000/- towards loss of earning for the period of 23 days for which he remained admitted in the hospitals. An amount of Rs.7500/- was awarded towards pain and sufferings and an amount of Rs.5,000/- towards transportation charges. In

this way total award of Rs.1,47,262/- along with interest @ 9% per annum was made from the date of filing of the claim petition till final realization of the amount.

[6]. I have heard learned counsel for the parties and have perused the material on record.

[7]. Evidently, after the accident the claimant remained admitted in different hospitals. The claimant has produced on record numerous documents in respect of his medical treatment for which total bill amount was assessed to be Rs.1,24,763/-. There may be some other hidden expenses while spending the amount towards the medical expenses. Some guess work has to be done and I am of the considered view that a lump sum amount to the tune of Rs.1,50,000/- can be awarded towards medical expenses keeping in view the recurring procedures and medical facilities availed by the appellant in different hospitals.

[8]. Appellant remained admitted in different hospitals and he must have spent some amount towards attendant charges, special diet and transportation. Taking into consideration the total period of confinement of the claimant/appellant on account of injuries, an amount of Rs.20,000/- towards attendant charges, Rs.20,000/- towards special diet and Rs.20,000/- towards transportation charges can be awarded to the appellant.

[9]. It has come on record that the appellant has suffered 'communited depressed fracture' in right frontal bone. Hospitalization of the appellant for a substantial period coupled with the nature of injuries suffered by him would entitled him to an award of Rs.1,00,000/- towards 'pain and sufferings' for the injuries received and continued agony suffered by him while getting treatment in different hospitals.

[10]. The factum of employment of the claimant in school has been established on record with reference to the evidence of PW-3. The income was proved to be Rs.12000/- per month. Due to the injuries suffered by the claimant, there was a certain loss of income, particularly in view of the fact that the employment of the claimant was also terminated after the accident and the said fact has not been objected to and countered by the Insurance Company in the cross-examination of the injured claimant.

[11]. The claimant was aged about 36 years at the time of accident and is an able bodied person. As a cumulative effect towards loss of income on account of termination of services and total period of confinement on account of injuries suffered by the claimant, loss of income to the tune of Rs.60,000/- can be assessed by applying some guess work.

[12]. In the light of aforesaid, the amount of compensation is worked out as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in Appeal	Difference
1	Medical expenses	Rs.1,24,763/-	Rs.1,50,000/-	Rs.25,237/-
2	Attendant charges	Nil	Rs.20,000/-	Rs.20,000/-
3	Special Diet	Nil	Rs.20,000/-	Rs.20,000/-
4	Transportation charges	Rs.5,000/-	Rs.20,000/-	Rs.15,000/-
5	Pain and suffering	Rs.7500/-	Rs.1,00,000/-	Rs.92,500/-
6	Loss of income on account of injuries and termination of services on account of hospitalization.	Rs.10,000/-	Rs.60,000/-	Rs.50,000/-
	Total compensation	Rs.1,47,763/-	Rs.3,70,000/-	Rs.2,22,737/-

[13]. The enhanced amount i.e. Rs.2,22,737/- would carry interest @ 9% per annum from the date of filing of the claim petition till final realization of the amount.

[14]. In view of aforesaid modification, the present appeal stands disposed of.

August 21, 2017
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No