

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 226

FAO No.1726 of 2014 (O & M)
Date of Decision: *January 27, 2017*

Ram Singh

..... APPELLANT

VERSUS

Balwan & another

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. Rahul Vats, Advocate, for the appellant.

Mr. Ravinder Arora, Advocate, for respondent No.2 –
Insurance Company.

. . .

Jaspal Singh, J

1. Dis-satisfied with the compensation awarded to the appellant vide Award dated December 10, 2013 passed by the Motor Accident Claims Tribunal, Narnaul (for short, 'Tribunal'), appellant has approached this Court for enhancement of compensation.

2. The appellant preferred a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of injuries sustained by him in a vehicular accident which took place on December 28, 2012 involving vehicle bearing No.HR-63A-0567, owned and possessed by respondent No.1 and insured by respondent No.2 - Iffco Tokio General Insurance Company Registered, Iffco Sadan C-1, District Centre Saket, New

3. The contention of learned counsel for the appellant is that grant of compensation to the tune of ₹ 3.5 lac on account of injuries sustained by the appellant is neither just nor adequate. Infact, the appellant sustained a number of injuries, remained in hospital for a considerable period for treatment, suffered permanent disability, had to undergo a number of operations which have left permanent adverse effect on his future healthy life. Infact, the Tribunal has failed to appreciate well settled proposition of law that while granting compensation for injury cases, the injured has to be compensated (1) for the pain and suffering (2) for loss of amenities (3) shortened expectation of life, if any (4) loss of earnings or loss of earning capacity etc. and (5) medical treatment and other special damages. In personal injury actions, the two main elements are the personal loss and pecuniary loss. In the case in hand, a consolidated amount of ₹ 3.5 lac has been awarded. It is fully proved on record that the appellant – claimant incurred an amount of ₹ 1 lac during the period, he remained hospitalized. Besides it, he has also proved on record various bills Ex.P-1 to P-58 amounting to ₹ 1,80,850/-. Due to sustaining of injuries, he was not able to work as much as he had been earlier working and was earning to the tune of ₹ 25,000/- per month from agricultural income.

4. While concluding his arguments, it has been submitted by the learned counsel for the appellant that taking his case from any of the angles, instant appeal deserves to be allowed and compensation awarded to appellant – claimant by learned Tribunal which is unjust, inadequate and on lower side, deserves to be enhanced, that too, with interest.

5. On the other hand, learned counsel for respondent No.2 has controverted the aforesaid submissions made by learned counsel for the

granted by the Tribunal which has already been paid by the Insurance Company. No doubt, he suffered some injuries but when addressing arguments, learned counsel for the appellant has exhorted the same. There was a small injury over right fore-arm below knee besides an abrasion of size of 1 cm alongwith the said injury. There is no permanent disability suffered or possessed by the appellant. The Disability Certificate Ex.PW-3/A placed and proved on record by the appellant depicts only temporary disability to the extent of 10% on account of range of motion of left knee joint reduced by 10% with parietal union right tibia. Taking into consideration the nature of injuries sustained by the appellant – claimant to the tune of ₹ 3.5 lac is on higher side. Accordingly, learned counsel for respondent No.2 prayed for dismissal of the petition.

6. After bestowing due consideration to the rival submissions put-forth by learned counsel for the appellant and scrutinizing the impugned award and other documents, this Court is of the considered view that there is no legal or factual justification to meddle with the findings recorded by the Tribunal and the amount of compensation awarded by it.

7. Concededly, Disability Certificate Ex.PW-3/A depicts only temporary disability to the extent of 10% on account of range of motion of left knee joint reduced by 10% with parietal union right tibia. Subsequent thereto, appellant – claimant did not get himself medico legally examined from the Board of Doctors to ascertain or to determine his permanent/temporary disability. There is nothing on record to suggest that after passing of impugned award he ever availed any medical facility or assistance or got any medical treatment from any hospital. For the amount incurred by the appellant – claimant during hospitalization and medical treatment/medicines etc., he has already been compensated. All those

documents have already been taken into consideration by the Tribunal while awarding the compensation. All the facts which are required to be taken into consideration while assessing the compensation on account of injuries sustained in a vehicular accident have already been taken into consideration by the Tribunal and there is nothing more to interfere therein. This court is of the considered view that an amount of ₹ 3.5 lac awarded by the Tribunal is legally and factually justifiable which can otherwise be termed to be a just and adequate one.

8. In the light of what has been discussed above, there is no merit in the instant appeal and same is dismissed.

January 27, 2017

avin

**(Jaspal Singh)
Judge**

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No