

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

Date of Decision: 16.11.2017

(1) FAO No. 4110 of 2014

Rinku

.....Appellant

Versus

Kapil Dev and others

.....Respondents

(2) FAO No. 4112 of 2014

Parveen Kumar

.....Appellant

Versus

Sahid and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Chanderhans Yadav, Advocate
for the appellant(s).

Mr. Pradeep Kumar, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The present appeals are for enhancement of the compensation awarded to the injured Rinku and Parveen Kumar vide award dated 18.11.2013 passed by Motor Accidents Claims Tribunal, Narnaul (for short 'the Tribunal').

The claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') were filed as the appellants had suffered injuries in a motor vehicular accident that occurred on 21.4.2012. The accident involved motor cycle bearing registration No.HR-35-G-6425 on which the appellants were travelling and truck bearing registration No.

HR-55-M-3718 (for short 'the offending vehicle'). The Tribunal awarded a sum of Rs.2,00,000/- along with interest at the rate of 7.5% per annum to Rinku and Rs. 1,20,000/- along with interest at the rate of 7.5% per annum to Parveen Kumar.

Aggrieved of the said award, the present appeals have been filed.

Learned counsel for the appellants argued that Rinku suffered 9% disability because of restricted movements of the knee. To establish disability Ex.PW8/A was produced and the said certificate was proved by PW8 -Dr. Pankaj Aggarwal, who deposed before the Tribunal.

Learned counsel for the appellants submitted that the appellant-Rinku was hospitalised for almost 12 days and was also operated upon. His grievance is that the Tribunal though has awarded a lump-sum amount but the same is on lower side. He restricted his argument that the appellant would be satisfied if another sum of Rs.30,000/- is awarded over and above the amount already given.

Learned counsel for the appellants while arguing the appeal of Parveen Kumar contended that he suffered 10% disability, on account of reduced range of movement of hip joint. Parveen Kumar was hospitalized for 10 days. His injuries were such that there was need for follow-up treatment.

Learned counsel for the Insurance company defended the award and resisted any enhancement. He contended that no positive evidence has been brought on record to establish that how these disabilities have actually effected the functional ability of the appellants. He further contended that the occupation and earning of the appellants was not proved.

Keeping in view the type of injuries and the fact that the appellants were hospitalized and the injuries have resulted into restricted movement of the joints which ensures that there was need for transportation, attendant and there may have been a follow up treatment. Enhancement of compensation is required.

For the reasons mentioned above, it is deemed appropriate that a sum of Rs.30,000/- each is awarded to both of the appellants, over and above the amount already awarded by the Tribunal. While awarding the lumpsum amount, interest to be awarded under Section 171 of the Act has been taken into consideration.

Appeals are partly allowed.

16.11.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No