

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

FAO-4276-2014 (O&M)
Date of decision: 11.12.2017

SUNIL

...Appellant

Versus

DILBAGH & ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sandeep Saini, Advocate for
Mr. Sumit Gupta, Advocate
for the appellant.

Mr. Arun Sharma, Advocate
for Mr. T.K. Joshi, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.12386-CII of 2014

Heard.

For the reasons stated in the application supported by affidavit of the appellant, same is allowed. Delay of 116 days in filing the appeal is condoned subject to the condition that the appellant shall forgo interest for the period of delay in case plea for enhancement of compensation is accepted.

Main Case

The injured victim is in appeal seeking enhancement of compensation in respect of injuries sustained in a motor vehicular accident

that took place on 11.04.2011.

The Tribunal has awarded compensation to the tune of Rs.82,600/-, detailed hereunder:-

1. Medical expenses	Rs.25,600/-
2. Disability	Rs.40,000/-
3. Pain and sufferings	Rs.10,000/-
4. Loss of income	Rs.5000/-
5. Transportation expenses	Rs.2000/-

Counsel for the appellant has submitted that compensation awarded under various heads is on lower side and needs enhancement. To bring home his contention, he has pointed out material facts noticed in para 15 of the award with regard to nature of injuries sustained that left temporary disability to the extent of 20% as a result of mal-united fracture of right femur with plating with stiffness of knee joint.

Counsel representing the insurance company, on the contrary, has supported the assessment made by the Tribunal with the submission that adequate compensation has been allowed.

The Tribunal has allowed reimbursement of medical expenses to the tune of Rs.25,600/- on the basis of medical bills Ex.P6 to P13. Counsel for the appellant has not made any submission justifying enhancement of compensation under this head. Accordingly, medical expenses allowed by the Tribunal are affirmed.

The injured victim has suffered temporary disability to the extent of 20% and the Tribunal has allowed compensation to the tune of

Rs.40,000/- @ Rs.2000/- per percent. As the disability is temporary in nature and no reassessment was got done by the injured, no justification for enhancement of compensation under this head is made out.

The claimant has not examined the treating doctor or records pertaining thereto from PGIMS, Rohtak. It is not clear as to how many days the injured remained hospitalized. However, he has suffered fracture of right femur which required plating. Compensation awarded by the Tribunal for pain and sufferings to the extent of Rs.10,000/- seems to be reasonable. However, in view of nature of injuries sustained coupled with temporary disability suffered by the victim, injured claimant might not have been able to pursue his daily routine and agricultural operations at least for a period of three months. The claimant is allowed an amount of Rs.15,000/- qua loss of income. He is awarded an amount of Rs.5,000/- for expenses on transportation and another Rs.5000/- for services of attendant and special diet. The additional amount of Rs.18,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay.

The appeal is partly allowed in the aforesaid terms.

11.12.2017

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No