

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4640 of 2015 (O&M)

Date of Decision: 20.11.2017

Ishwar Singh

.....Appellant

Versus

Sunder and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Raghav Sharma, Advocate
for the appellant.

Mr. M.B. Jain, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal has been filed being aggrieved of the award dated 21.2.2015 in MACT Case No. 113/13 of 2014 passed by Motor Accidents Claims Tribunal, Karnal (for short 'the Tribunal').

The appellant has come against the award dated 21.2.2015 for enhancement of the amount awarded of Rs.33,800/- along with interest at the rate of 9% per annum.

In a motor vehicular accident that occurred on 16.6.2011, Ishwar Singh, aged 35 years, suffered injuries including fracture. He was driving motor cycle bearing registration No. HR-05-T-0194, which was struck by a rashly and negligently driven Tata 407 bearing registration No. HR-45-A-4101. FIR No. 154 dated 17.6.2011 was registered at Police Station Pundri.

A claim petition under Section 166 of the Motor Vehicles Act,

1988 (for short 'the Act') was filed. It was claimed that there was 5%

disability for which disability certificate Ex.P2 was produced. Doctor deposed that he was hospitalized for three days.

I have heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellant has argued that the amount awarded for medical expenses is on lower side as it has not been taken into consideration that future treatment would be required. He further argued that the appellant was a painter and was under plaster for six weeks so being a skilled labourer and according to Doctor advise he was not able to work even after removal of plaster, while awarding the amount for pain and suffering, special diet, transportation, the same has not been considered.

Learned counsel for the Insurance Company defended the award and contended that the appellant had failed to prove before the Tribunal that this disability has effected his day-to-day working. He further argued that the occupation of the appellant was not proved before the Tribunal.

While considering the cases of motor vehicular accident especially where there are non-fatal injuries, it has to be kept in mind that the claimant has suffered because of no wrong done by him but because of act done by a wrong doer. The object to be achieved is to put the injured in a original position so far as money can. The contention of learned counsel for the Insurance Company that the occupation of the appellant was not proved, cannot be accepted as it is.

While awarding the amount for pain and suffering, the issue to be considered is that it is not only the physical pain, but it includes trauma, harassment and mental agony.

In the present case, the pain has not ended even after the discharge from the hospital and it was persistent.

Keeping in view the above facts, the amounts awarded by the Tribunal are enhanced as under:

<i>Sr. No.</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount now awarded</i>
1	Medical expenses Rs.38,00/-	Rs.5,000/-
2	Pain and suffering Rs.10,000/-	Rs.20,000/-
3	Attendant charges, special diet, transportation Rs.5000/-	Rs.15,000/-
4	Permanent disability Rs.15,000/-	Rs.15,000/-
5	Loss of income during treatment period	Rs.10,000/-
Total	33800/-	Rs.65,000/-

The award dated 21.2.2015 is modified to the extent that an amount of Rs.33800/- awarded by the Tribunal is enhanced to Rs.65,000/-. The claimant shall be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

20.11.2017
reema

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No