

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5673 of 2015 (O&M)

Date of Decision: 12.12.2017

Balraj

.....Appellant

Versus

Den Raj and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Madan Pal, Advocate for
Ms. B.Jeet Sheoran, Advocate
for the appellant.

Mr. Abhinav Gupta, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 11.10.2013 passed by the Motor Accidents Claims Tribunal, Hisar (for short 'the Tribunal').

Balraj aged 45 years met with an accident on 26.8.2011 while he was going on a Scooter bearing registration No.HR-20-H-0843. He was hit by a rashly and negligently driven car bearing registration No.HR-51-R-9755 (for short 'the offending vehicle'). As a result of the accident, he suffered grievous injuries including fracture of left leg. He was taken to hospital where he remained admitted.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed. The Tribunal after appreciating the facts and considering the evidence awarded a sum of Rs.1,55,000/- alongwith interest at the rate of 7.5% per annum.

The present appeal has been filed for enhancement of

compensation.

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

The parties are not disputing the facts regarding involvement, rash and negligent driving of the offending vehicle, percentage of permanent disability qua the limb and the fact that the appellant was hospitalized from 26.8.2011 to 28.10.2011.

Learned counsel for the appellant argued that the appellant suffered multiple injuries including fracture in the left leg and he was hospitalized for almost two months. His grievance is that inspite of hospitalization and fracture of leg, no amount has been awarded for transportation and the amounts awarded for pain and suffering, special diet and attendant, are on the lower side. His further grievance is that no compensation has been awarded for loss of amenities.

No other point has been raised.

Learned counsel for the Insurance Company argued that no positive evidence has been adduced to show that what is the effect on the functional ability of the appellant. He contended that it has not been proved on record that any expenses were incurred on transportation. He resisted any further enhancement.

The fact which has not been disputed is that the appellant was hospitalized for almost two month, it is an indication that he suffered grievous injuries and it was not a mere case of fracture but there were some complications also. With the fractured leg the appellant could not have moved on his own and would have required not only an attendant but transportation also. The transportation is required even after the discharge

from the hospital. The fractured leg ensures that he would not be able to move around or drive the two-wheeler. The Tribunal itself has noticed that Doctor Reena Jain PW2 has deposed that the permanent disability would interfere with the normal enjoyment of life, yet no compensation has been awarded for loss of amenities of life.

While awarding the compensation for pain and suffering, it is to be considered that it does not include only the physical pain but the trauma, mental agony and the harassment suffered not only by the appellant but his family members also.

Hon'ble the Apex Court in *G. Ravindranath @ R. Chowdary Versus E. Srinivas and another*, 2013(12)SCC 455, held that in case of personal injury pecuniary damages (special damages) should be given under various heads. It was further held that non-pecuniary damages should also be compensated.

Keeping in view the facts and circumstance and the case law referred above, the following amounts are awarded and enhanced as per the Table given below:

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Amount now awarded</i>
1	Grievous Injury	Rs.40,000/-	Rs.40,000/-
2	Permanent disability	Rs.20,000/-	Rs.20,000/-
3	Medical bills	Rs.55,000/-	Rs.55,000/-
4	Attendant and Special Diet	Rs.20,000/-	Rs.35,000/-
5	Pain and suffering	Rs.20,000/-	Rs.40,000/-
6	Transportation	Not awarded	Rs.20,000/-
7	Loss of amenities of life	Not awarded	Rs.20,000/-
	Total:	Rs.1,55,000/-	Rs.2,30,000/-

The award dated 11.10.2013 is modified to the extent that the amount awarded of Rs.1,55,000/- is enhanced to Rs.2,30,000/-. The claimant shall be entitled to enhanced amount alongwith 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 accordingly partly allowed in the aforesaid terms.

12.12.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No