

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

**FAO No. 641 of 2015 (O&M)
Decided on 01.08.2017**

DHURA RAM

... Appellant

VERSUS

GHAN SHYAM YADAV & OTHERS.

..... Respondents.

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT.

**PRESENT : Mr. Naveen Gautam, Advocate for the appellant.
Mr. Sachin Ohri, Advocate for respondent No.3.**

RAJBIR SEHRAWAT, J.

There is an appeal filed by the injured claimant for enhancement of the amount awarded to him by Motor Accidents Claims Tribunal, Narnaul on account of injuries suffered by him and the other heads as mentioned in the Award.

2. The brief facts as mentioned in the claim petition are that on 13.07.2013 appellant was going from Mohindergarh to his village Dhingariyar on his motorcycle at a moderate speed. When he reached just ahead of village Khatodara, then an Alto car bearing temporary No.HR-99QA (TEMP) 5007 being driven by respondent No.1 at a high speed and in a zig-zag, rash and negligent manner came from the opposite side and hit his motorcycle. As a result of this

accident, appellant fell down and sustained injuries and his motorcycle was also

damaged. It is further claim of the appellant that he was first medico-legally examined at Civil Hospital, Mohindergarh and thereafter he was shifted to Birla Saryjanik Hospital, Pilani, for management of his injuries on the same day where he remained admitted from 13.07.2013 to 26.07.2013 and was operated upon there. In this operation nail, screws and plates were inserted in the leg, which was fractured in the accident. He was again admitted in the same Hospital on 30.07.2013 and was discharged on 13.08.2013. It is further case of the appellant that thereafter the appellant was admitted in NIMS Hospital, Jaipur on 23.12.2013 and was discharged on 09.12.2014. There also, he was operated upon on 26.12.2013. So it is the case of the appellant that he remained under treatment of various private hospitals and spent about ₹.3,00,000/- on his treatment and the same was still continuing.

3. It is stated that the appellant was 34 years of age and was earning ₹15,000/- per month from agriculture, dairy farming and animal husbandry work. He has become permanently disabled and not in a position to walk and move. Even for a daily routine, he needs the assistance of an attendant.

4. After considering the respective pleadings and evidences led by the parties, the Motor Accidents Claims Tribunal, awarded compensation of ₹1,91,000/- in total. Giving further break up, the Tribunal has awarded an amount of ₹25,000/- for pain and suffering on account of long treatment and repeated

operations. ₹15,000/- has been awarded cumulatively on account of special diet,

attendant services and transportation expenses. Still further, an amount of ₹1,04,000/- has been awarded towards treatment. Since the permanent disability was assessed to be 6%, therefore, ₹12,000/- has been awarded on that account and ₹35,000/- has been awarded on account of loss of income.

5. Presenting his case, learned counsel for the appellant has submitted that he remained as an indoor patient for 46 days and has been operated upon twice, therefore, compensation amount of ₹25,000/- awarded to him on account of pain and sufferings is too insufficient. He has assailed the amount of compensation awarded on account of special diet, attendant and transportation charges as well and submitted that he has spent more than this amount on each of these three individual heads. Therefore, his prayer is that this should be enhanced suitably. Still further, it is submitted by the learned counsel for the appellant that the compensation of ₹35,000/- awarded on account of loss of income is grossly inadequate because he has been permanently disabled resulting into impairment of his limb. Therefore, the amount should be enhanced on this account as well.

6. Counsel for the appellant has further submitted that although the Tribunal has said that the treatment of the appellant would have continued even after three operations, however, the amount on account of medicines has been awarded only for the bills, which were incurred by the appellant during hospitalization and the operations. No compensation has been awarded for follow-

be requiring, nothing has been awarded.

7. Learned counsel for the Insurance Company has opposed the plea of the counsel for the appellant and has submitted that he has been sufficiently compensated by the Tribunal.

8. After hearing the learned counsel for the parties and perusing the records, this Court is of the view that the appellant suffered enormous pain. He had been operated upon thrice and he remained as indoor patient for 46 days. Thereafter also, he had to seek follow-up treatment. Therefore, he suffered tremendous pain and suffering due to this injury. Hence, the amount awarded on account of pain and suffering is enhanced to ₹50,000/-. Such a grievous injury would require the special diet and consistent help of the attendant. Still further, he has been transported at least thrice to different distant places, therefore, the amount of ₹15,000/- awarded only is grossly inadequate. The compensation on this account is also enhanced to ₹50,000/-. Since the appellants' limb has been permanently impaired, therefore, his earning capacity would definitely be lowered down which would affect his earnings for all times to come, besides the loss already caused to him regarding his income during the period of treatment. Hence, the compensation on account of loss of income is also enhanced to ₹50,000/-.

9. While retaining the compensation on account of medicines for the period of hospitalization at ₹1,04,000/-, a compensation of ₹25,000/- is awarded in

addition to this amount on account of medicines taken by the appellant during the

follow-up treatment and future medical expenses.

10. The permanent disability assessed is 6% and this permanent disability relates to permanent impairment of limb and the appellant was 34 years of age and thus have been an earning hand, therefrom, on account of disability also the compensation awarded is enhanced to ₹25,000/-.

11. Hence, the compensation amount awarded to the appellant is enhanced in the terms, given below : -

1.	Compensation on account of medicines ₹1,04,000/-+ ₹25,000/- =	₹1,29,000/-
2	Compensation on account of pain and sufferings	₹50,000/-
3.	Compensation on account of special diet, attendant and transportation	₹50,000/-
4.	Compensation on account of loss of income	₹50,000/-
5.	Total	₹2,79,000/-

12. The interest on the enhanced amount shall be as awarded by the Tribunal from the date of filing the petition till realization of the same.

13. The appeal is allowed and the Award of the Motor Accidents Claims Tribunal, Narnaul is modified in the above said terms.

(**RAJBIR SEHRAWAT**)
JUDGE

August 01, 2017

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1. Whether speaking/reasoned Yes/No.
2. Whether reportable ? Yes/No.