

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

FAO-8422-2015 (O&M)

Date of decision: 15.11.2017

Jagtar Singh

.... Appellant

Versus

Ankush Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Neeraj Khanna, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal has been preferred against the award dated 14.07.2015 passed by Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal').

Jagtar Singh, aged 51 years, met with a motor vehicular accident on 16.11.2013. He suffered fracture of right shaft, femur bones, hip bone and other facial injuries. He was taken to General Hospital, Sector 16, Chandigarh. FIR No.557 dated 16.11.2013 was registered at Police Station Sector 39, Chandigarh. The accident occurred due to rash and negligent driving of Maruti Alto Car bearing registration No. CH01-AL-0389.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal vide its award dated 14.07.2015, awarded a sum of

Rs.1,11,570/- along with interest @ 6% per annum.

Aggrieved of the said award, the present appeal has been filed for enhancement of compensation awarded by the Tribunal.

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

Learned counsel for the appellant has argued that the appellant had suffered 8% permanent disability qua his right leg. Disability certificate Ex.P46 was proved by doctor Varinder Nagpal-PW3. He further argued that no amount has been awarded for loss of permanent disability. His further grievance is that though Ex.P47 to Ex.P60 were produced for travelling expenses but the same were rejected on the ground that the appellant was not able to prove that he visited the hospital on these vehicles. The Tribunal was of a view that he could use the public transport. He further argued that the appellant remained hospitalised for 18 days and no amount has been awarded for transportation, permanent disability and attendant.

On the other hand, learned counsel for respondent No.3 defended the award and resisted enhancement. He argued that just and equitable amount has been awarded by the Tribunal taking into consideration all the material produced before it.

The facts are not disputed in the present case. The only issue which remained unsubstantiated was that the claimant was not able to prove that he was working as an electrician and hence his income was assessed as an unskilled labourer. According to the said assessment, the Tribunal proceeded to award compensation.

The injuries and 8% permanent disability have also not been disputed. No positive evidence has come on record that how this 8% permanent disability qua leg has effected functional abilities of the appellant and it was not proved that he was an electrician. Be that as it may, still permanent disability compensation should be awarded.

This court in **Piara Singh and others vs. Satpal Kumar and others, 2006(4) RCR (C) 546** awarded compensation for disability by multiplying the percentage of disability by Rs.2,000/-.

Following the same in the present case, the compensation for disability is awarded :- Rs.2,000x8=Rs.16,000/-.

The appellant was hospitalised for 18 days and there were fractures in the legs. Both these aspects ensure one thing that he would have needed transportation during the period of treatment and thereafter also. Fracture of both bones of legs ensured that he would not be able to drive or even travel of his own for a long time.

The Tribunal erred in giving the reasoning that the claimant could have used the public transport instead of hiring a private vehicle for his treatment. The hospitalisation and the fracture of leg is also an indicator that attendant would have been required during the period of hospitalisation and for recovery also.

The Hon'ble Apex Court in **G. Ravindranath @ R. Chowdary Versus E. Srinivas and another, 2013(12)SCC 455** has held that in case of personal injury pecuniary and non-pecuniary damages should be compensated.

As per the decision referred to above and keeping in view the facts of the case, the amounts not awarded by the Tribunal are awarded as per table given below :-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	Medical expenses spent of treatment	Rs.25,570/-	Rs.25,570/-
2	Loss of income	Rs.9,000/-	Rs.9,000/-
3	Special diet	Rs.25,000/-	Rs.25,000/-
4	For pain and suffering	Rs.25,000/-	Rs.25,000/-
5	Loss of amenities	Rs.25,000/-	Rs.25,000/-
6	disability	Not awarded	Rs.16,000/-
7	Attendant charges	Not awarded	Rs.15,000/-
8	Transportation	Not awarded	Rs.10,000/-
9	Cost	Rs.2,000/-	Rs.2,000/-
	Total	Rs.1,11,570/-	Rs.1,52,570/-

The award dated 14.07.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.1,11,570/- is enhanced to Rs.1,52,570/-.

The appellant shall be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

15.11.2017
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- 1.Whether the order is speaking/reasoned: Yes/No
- 2.Whether the order is reportable : Yes/No