

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 810 of 2017(O&M)

Date of decision December 13, 2017

Devi Chand @ Mithu

..... Appellant

Versus

Saddam Hussain and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Suvir Dewan, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (ORAL)

The present appeal has been filed against the award dated 25.7.2016 passed by the Motor Accident Claims Tribunal, Ambala (for short 'The Tribunal') in MACT Case No. 123 (27) of 2016.

This appeal raises an issue of enhancement of compensation.

It was an unfortunate New year day of 2016 for the family. Satish Kumar along with four other persons was travelling in a car bearing registration No. HR-08-R-9738. Satish Kumar and Munish Kumar died in a motor vehicular accident whereas Jasbir Singh and Devi Chand suffered injuries. The said car was hit by a rashly and negligently driven truck bearing registration No.MP-33H-1703 (for short the 'offending vehicle'). As a result of the accident both Satish Kumar and Munish Kumar died on the spot and Devi Chand and Jasbir Singh suffered injuries. FIR No. 1 dated 1.1.2016 was registered at Police Sation I.A. Saha District

The claim petition was filed by Devi Chand @ Mithu under Section 166 of The Motor Vehicles Act, 1988 (for short 'The Act') was filed and the Tribunal awarded Rs.74,300/- along with interest @ 7.5% per annum.

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

The facts have not been disputed by the parties. There is no dispute with regard to involvement and the rash and negligent driving of the offending vehicle.

Learned counsel for the appellant has argued that the appellant was shifted to Civil Hospital, Ambala Cantt and after first aid, he was referred to GMCH, Sector 32, Chandigarh where he remained admitted till 7.1.2016 and thereafter he was shifted to Sh. Hari Hospital, Karnal where he remained admitted till 10.1.2016. He was operated upon and an iron rod was inserted in his left leg on thigh and he also got follow up OPD treatment from the said hospital.

He has further argued that the appellant remained admitted in the hospital for ten days. He was operated upon his leg and he had been awarded only Rs. 8,000/- for pain and suffering and Rs. 1500/- for transportation which are on the lower side. His further contention is that the appellant was 33 years of age and was not able to work because of the injuries. He contended that the amount awarded by the tribunal should be enhanced and various pecuniary and non-pecuniary heads have not been considered by the Tribunal.

Learned counsel for the Insurance Company, on the other hand, argued that there is neither temporary disability nor a permanent

disability. He further contended that nothing has been placed on record to show that there was some actual expenses incurred for transportation or for other heads.

The accident has not been disputed and even the injuries suffered have not been disputed by the parties. It has come on record that the appellant remained admitted in the hospital for ten days and was operated upon by which a rod was inserted in his left leg. The medical expenses itself came to Rs. 64,705/-. The type of injury and the type of treatment shows that the appellant would have needed transportation and attendant. In case of fracture and surgery, special diet must had been advised by the doctor so that there should be speedy recovery. Because of the broken leg the appellant would not have been able to move on his own and would have required transportation and attendant during the period of treatment and thereafter also. The fracture ensures that atleast for six weeks he would not have been able to do his work for which he would have suffered financial loss.

It has been held by the Hon'ble Supreme Court in G. Ravindranath @ R. Chowdary Vs. E. Srinivas and another 2013 (12) SCC 455 that in case of injury both pecuniary and non-pecuniary damages should be compensated. Another endeavour is to put the sufferer back to his original position so far as money is concerned.

Keeping in view the facts of the case, the following amounts are enhanced and awarded as per the table below:-

<i>S.No.</i>	<i>Heads of claim</i>	<i>Amount awarded by the tribunal</i>	<i>Amount enhanced</i>
1	Medical Bills	64,705/-	64,705/-
2	Pain and suffering	8,000/-	20,000/-
3	Transportation	1500/-	15,000/-

<i>S.No.</i>	<i>Heads of claim</i>	<i>Amount awarded by the tribunal</i>	<i>Amount enhanced</i>
4	Special diet	-	10,000/-
5	Attendant charges	-	5,000/-
6	Loss of income during the period of treatment	-	10,000/-
	Total	-	1,24,705/-

The award dated 25.7.2016 is modified to the extent that the amount awarded by the Tribunal of Rs. 74,300/- is enhanced to Rs.1,24,705/-.

No other issue has been raised.

The claimant would be entitled to the enhanced amount of compensation along with interest @ 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

December 13, 2017
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Whether speaking/reasoned
Whether Reportable

Yes
Yes/No