

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1031 of 2002 (O&M)
Date of decision:08.10.2018.

Bablu

...Appellant

Versus

Mangal Sain and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vipin Sharma, Advocate for
Mr. Surinder Mohan Sharma, Advocate for the appellant.

Mr. Nikunj Dhawan, Advocate for
Mr. Harsh Aggarwal, Advocate for respondent No.3/Insurance
Company.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to him by the learned Motor Accident Claims Tribunal, Ambala ('Tribunal' for short) vide award dated 30.04.2001 on account of injuries and disability suffered by him in a motor vehicle accident on 04.09.1998.

Brief facts necessary for adjudication of the case are that a petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking compensation on account of the injuries and disability suffered by him. The appellant was involved in a motor vehicle accident on 04.09.1998 when he was on his way to the market on his bicycle. When the appellant reached near Vijay Rattan Chowk towards Jain Girls Higher Secondary School, the offending car bearing registration No.PB-13C-0022 being driven by respondent No.1 in a rash and negligent manner and at a

high speed without blowing any horn came from behind and dashed against the cycle of the claimant. The cycle of the claimant fell down and he sustained multiple and grievous injuries. He was taken to a private hospital at Ambala Cantt. by respondent No.1 in his car and thereafter he ran away. FIR No.520 dated 09.09.1998 was registered at Police Station Ambala Cantt against respondent No.1. It was pleaded that the claimant at the time of accident was 48 years old and was working as Senior Scale Operator in T.C.O., Ambala Cantt. (PNT Department). He was drawing a salary of Rs.6065/- per month at that time. Compensation was, thus, prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

The learned Tribunal concluded that the appellant sustained fracture of lateral condyle of left tibia and disability due to this injury has been assessed as 20%. A sum of Rs.40,000/- was afforded towards general damages (for the injuries caused, its effects after the retirement of the claimant) on account of these injuries. Another sum of Rs.10,000/- was also afforded as the amount spent on his treatment. A sum of Rs.10,000/- was awarded for pain and suffering besides a sum of Rs.5000/- for a balanced diet. Another sum of Rs.10,000/- was awarded to the claimant for not being able to avail the benefit of leave encashment as he remained on leave for about 55 days due to the injuries. A total sum of Rs.75,000/- was awarded as compensation to the claimant along with interest @ 9% per annum from the

date of filing of claim petition till realisation. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant submits that meagre compensation has been afforded to the claimant which is required to be enhanced.

Learned counsel for the Insurance Company while refuting the above said arguments submits that the claimant/appellant was employed as Senior Scale Operator in BSNL and suffered no loss of income or any loss regarding future prospects as the nature of his job did not entail any disqualification due to the injuries received.

I have heard learned counsel for the parties and have gone through the file.

It is not in dispute that the appellant was 40 years old and was employed as Senior Scale Operator with BSNL. There is nothing to indicate that he suffered any loss of income on account of injuries received or the disability of 25% suffered by him. The appellant could not prove that he would not obtain promotions which otherwise may have been due to him, on account of disability suffered by him in the said accident. Therefore, it is concluded that the appellant did not suffer any loss of income and loss of future prospects. However, the claimant is entitled to a sum of Rs.50,000/- (instead of Rs.10,000/-) on account of pain and suffering instead of Rs.10,000/-. He is also entitled to a sum of Rs.25,000/- for loss of amenities, Rs.5000/- for attendant charge and a sum of Rs.40,000/- on account of permanent disability suffered by the claimant. Another sum of Rs.10,000/- is also awarded towards medical treatment besides Rs.10,000/- awarded for loss of benefit of leave encashment and Rs.5000/- for the balanced died as

awarded by the learned Tribunal is upheld. Thus, the claimant is entitled to total compensation of Rs.1,45,000/-, the details of which are as under: -

Sr.No.	Heads of Claim	
1.	Pain and suffering	Rs.50,000/-
2.	Loss of amenities	Rs.25,000/-
3.	Attendant charges	Rs.5,000/-
4.	Special diet	Rs.5,000/-
5.	Permanent disability	Rs.40,000/-
6.	Medical treatment	Rs.10,000/-
7.	Loss of benefit of leave encashment	Rs.10,000/-
Grand Total		Rs.1,45,000/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 30.04.2001, present appeal is disposed of.

(LISA GILL)
JUDGE

October 08, 2018
Ishwar

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No