

245(2)

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

**FAO No.2251 of 2003
Date of Decision: 16.11.2018**

Rati Ram

Appellant

Versus

Aman Deep Bhandari and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gautam Kaile, Advocate for
Mr. Om Parkash Sharma, Advocate
for the appellant.

Ms. Shamsheer Kaur, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The present appeal has been filed against award dated 02.09.2002 passed by Motor Accident Claims Tribunal, Gurgaon (for brevity 'the Tribunal').

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

Rati Ram (pillion rider) of Scooter bearing registration No. HR-26F-9597 is the appellant. The owner of Truck bearing registration No. DL-IG/B-2158 (hereinafter referred to as 'offending vehicle'); driver of offending vehicle and insurer of offending vehicle i.e. National Insurance Company Ltd. have been arrayed as

respondents No.1 to 3 respectively, in the appeal.

The brief facts necessary for adjudication of the appeal are that on 05.01.1999, Siri Bhagwan was driving Scooter bearing registration No. HR-26F-9597 while Ratti Ram was pillion rider. When they reached near Dulina turning situated on Jhajjar-Gurgaon Road, the scooter was hit by a rashly and negligently driven offending vehicle. As a result of accident Rati Ram suffered multiple fractures on his left leg. A claim petition under Section 166 of Motor Vehicles Act, 1988 (for brevity 'the Act') was filed. The Tribunal, after considering the facts and appreciating the evidence adduced on record, held that the accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹45,860/- alongwith interest @ 9% per annum. The present appeal has been filed for enhancement of compensation.

Heard learned counsel for the parties, perused the paper book and relevant documents on record.

Learned counsel for the appellant contended that the appellant suffered injuries and was treated for Osteomyelitis of left femur/knee. He was advised for follow-up treatment after three months. He suffered stiffness of knee joint. He remained hospitalized for 29 days. His grievance is that the amount awarded under various heads is on the lower side.

Learned counsel for the insurer contended that no

disability was proved. Even no certificate was issued for temporary/permanent disability. No case is made for further enhancement of compensation.

It has not been disputed by the parties that appellant remained hospitalized for 29 days. He suffered fractures and rod was inserted in his left leg. The Tribunal while awarding compensation, awarded ₹30,000/- for pain and suffering and ₹7,260/- for medicines; ₹3,000/- each was awarded for transportation charges and special diet and ₹2,500/- was awarded for loss of income.

The Tribunal assessed the monthly income of the deceased as ₹2,500/- and loss of income was awarded for one month. Keeping in view the nature of injury and treatment he had undergone, it can be safely concluded that appellant would not be able to attend his work atleast for three months. Hence ₹5,000/- more is awarded for loss of income. He was hospitalized for 29 days, he would have required attendant and transportation not during the period of hospitalization but subsequently also, ₹5,000/- is awarded for attendant charges and amount awarded for transportation and special diet are enhanced by ₹5,000/-.

The amount awarded vide award dated 02.09.2002 is enhanced by ₹15,000/-.

It is, however, clarified that while enhancing the compensation, interest to be awarded under Section 171 of the Act has also been taken into consideration. The insurer shall pay the enhanced amount within six weeks from today, failing which the

claimants shall be entitled to interest @ 9% on the enhanced amount from the date of filing of claim petition till realization of amount.

[AVNEESH JHINGAN]
JUDGE

November 16, 2018
pankaj baweja

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