

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

FAO No.3638 of 2004 (O&M)
Date of decision: 07.03.2018

Dr. Manoj Kumar Rathi ... Appellant

Versus

Harmesh Singh and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Subhash Godara, Advocate for
Mr. S.S. Dinarpur, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The injured has filed the instant appeal seeking enhancement of compensation on account of injuries sustained by him in a motor vehicular accident that took place on 18.05.2001.

The Tribunal has awarded compensation of Rs.1,65,091/-, detailed in para 41 of the award, extracted hereunder:-

1. Medical expenses and doctor fees etc.	Rs.1,42,991/-
2. Pain and suffering	Rs.12,000/-
3. Nutritious diet	Rs.2400/-
4. Attendant charges	Rs.2700/-
5. Transportation charges	Rs.2000/-
6. Loss of earning	Rs.3000/-

Counsel for the appellant would argue that compensation awarded by the Tribunal under various heads is on lower side and needs enhancement. To substantiate his contention, he has relied upon testimonies of Dr. Harsh Kumar, Senior Resident, Department of Surgery, GMCH, Sector 32, Chandigarh PW7 and Dr. T.D. Yadav, Assistant Professor, Department of Surgery, PGIMS, Chandigarh. It is argued that the injured remained hospitalised in GMCH, Sector 32, Chandigarh from 18.05.2001 to 14.06.2001 and most of the period he remained in ICU i.e. from 18.05.2001 to 08.06.2001. It is further submitted that Dr. Harsh Kumar has deposed that the injured suffered from blunt trauma abdomen with liver laceration with shattered spleen with distal pancreatic contusion with mesenteric tear with blunt trauma chest. It is argued with vehemence that in view of nature of injuries sustained coupled with period of hospitalisation, compensation awarded by the Tribunal is liable to be enhanced.

Counsel representing the insurance company has supported assessment made by the Tribunal with the submission that adequate compensation has been paid. It has further been argued that the Tribunal has rightly allowed loss of earning of Rs.3000/- as Dr. Harsh Kumar has admitted that on the original card Ex.P146, income of the patient had been changed from Rs.1000/- to Rs.1,00,000/- whereas in the hospital records, this income is shown as Rs.1000/- per month.

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

The Tribunal has allowed compensation of Rs.1,42,991/-

towards medical expenses and doctor(s) fees etc. Counsel for the appellant has not advanced any arguments justifying enhancement of compensation under this head. There is no challenge to oral and documentary evidence produced by the claimant in respect of injuries sustained and period of hospitalisation including confinement in ICU from 18.05.2001 to 08.06.2001. The Tribunal has awarded an amount of Rs.12,000/- for pain and sufferings. Claimant is held entitled to an amount of Rs.25,000/- under this head. Compensation of Rs.5100/- allowed by the Tribunal for nutritious diet and attendant charges is enhanced to Rs.10,000/-. With regard to transportation, claimant is awarded an amount of Rs.10,000/-.

The Tribunal has awarded an amount of Rs.3000/- towards loss of earning. Findings of the Tribunal that in the records of hospital, his income is shown as Rs.1000/- per month though some change was made in document Ex.P146 from Rs.1000/- to Rs.1,00,000/- qua income of the victim. However, it is not denied that the claimant is BAMS. He remained hospitalised for a period of one month. He sustained several injuries reiterated by Dr. Harsh Kumar PW7. He must have taken some time to recover after discharge from the hospital. Taking a reasonable and cumulative view of the facts and circumstances on record, interest of justice would be served, if the claimant is awarded an amount of Rs.10,000/- qua loss of income for a period of three months. In view of the above, total compensation payable to the claimant is Rs.1,97,991/- (1,42,991 + 25000 + 10000 + 10000 + 10000) and the additional amount is Rs.32,900/- (1,97,991 – 1,65,091), payable with interest @ 7.5% per annum from the

date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

07.03.2018

ashok

(REKHA MITTAL)
JUDGE

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