

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

**Date of Decision: 19.02.2018**

(i) F.A.O. No. 1687 of 2002 (O&M)

Harkesh Kumar

.....Appellant

**Versus**

Nirmal Singh alias Nirbhay and others

.....Respondents

(ii) F.A.O. No. 2537 of 2002 (O&M)

Hari Dass

.....Appellant

**Versus**

Nirmal Singh alias Nirbhay and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

**Present:** Ms. Parminder Kaur, Advocate for  
Mr. Vishal Gupta, Advocate  
for the appellant.

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

**AVNEESH JHINGAN, J.(oral)**

These appeals have arisen from award dated 03.12.2001 passed by the Motor Accidents Claims Tribunal, Karnal (for short 'the Tribunal').

An accident took place on 12.10.1998. Harkesh Kumar in order to get his tractor repaired bearing registration No.HR-07-9128 attached it with the tractor trolley of Hukam Singh, bearing registration No. HYK-4762. When they reached near Octroi Post of village Khanpura on G.T. Road and were going towards Karnal, a rashly and negligently driven truck bearing registration No. RSD-5288 hit the tractor, as a result of which the appellant suffered injuries and the tractor owned by the appellant-Hari Dass was damaged.

The claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') were filed. The Tribunal awarded a sum of Rs. 23,000/- as compensation to the appellant for the injuries suffered and Rs.14,000/- for the damage to the tractor, along with interest at the rate of 9% per annum.

This was burnt case and has been reconstructed from the salvaged record and copies supplied by counsel subject to all just exceptions.

I have heard learned counsel for the parties, perused the paper book and the relevant record produced by them.

The appeals have been filed only for enhancement of compensation.

**FAO No. 1687 of 2002**

Learned counsel for the appellant argued that the amount awarded of Rs.23,000/- is on the lower side. Appellant suffered injuries including fracture of nazal bone and injury was suffered on eye and head. The appellant remained hospitalized for six days, the fact were proved by deposition of Dr. K.L. Sachdeva, Haryana Nursing Home, Karnal. Doctor also stated that he charged Rs.3300/-.

Learned counsel for the Insurer defended the award and contended that no case for enhancement is made out and there is no case of permanent or temporary disability.

The fact that there was nazal bone fracture and injury on eye and head of the appellant has not been disputed; his hospitalization has also been duly proved. In such circumstances, not only the pecuniary damages but non-pecuniary damages are also to be considered. Keeping in view the

facts and circumstances of the case, it is deemed appropriate that an amount of Rs.50,000/- is awarded over and above the amount already awarded for the injuries suffered by the appellant. It is, however, clarified that the the interest to be awarded on the amount under Section 171 of the Act has also been taken into consideration.

**FAO No. 2537 of 2002**

The appeal has been filed for enhancement of compensation awarded for the damage to the tractor.

Learned counsel for the appellant argued that vide Ex. P9, P12, P25 and P26, it was proved before the Tribunal that spare parts worth Rs.26718/- were purchased. The Tribunal erred in restricting the compensation to Rs.14,000/-. She contended that no amount for labour of the mechanic has been awarded.

Learned counsel for the Insurer defended the award.

The appellant has duly proved that spare parts worth Rs. 27,000/- approximately were purchased. There cannot be any doubt that mechanic would have charged his labour separately.

Keeping in view the facts and circumstances of the case, the amount awarded of Rs.14,000/- is enhanced to Rs.35,000/-.

The enhancement has been made taking into consideration the interest to be awarded under Section 171 of the Act.

The appeals are partly allowed in the aforesaid terms.

**(AVNEESH JHINGAN)**  
**JUDGE**

**19.02.2018**  
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Whether speaking/reasoned  
Whether Reportable:

Yes/No  
Yes/No