

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.621 of 2001 (O&M)

Date of decision:22.11.2018.

Kartar

...Appellant

Versus

Bijender and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Zorawar Singh, Advocate for
Mr. N.S. Shekhawat, Advocate for the appellant.

Mr. Shashikant Gupta, Advocate for respondent No.1

Ms. Anamika Mehra, 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, Narnaul ('Tribunal' for short) vide award dated 01.03.2000 on account of injuries and disability suffered by him in a motor vehicle accident on 31.01.1999.

Legible copy of the award filed in Court today by learned counsel for the appellant is taken on record subject to just exceptions.

Learned counsel for the appellant submits that liability of the Insurance Company is not in dispute. Therefore, there is no requirement for bringing on record the legal representatives of respondent No.2, who is the owner of the offending vehicle. He prays that the same be dispensed with. Ordered accordingly.

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

31.01.1999, when he was going to his Village from Narnaul in a jeep bearing No.HR-35A-2157. The driver of the jeep was driving the same in a rash and negligent manner. When they reached near Bal Bhawan, a truck was noticed coming from the opposite side while a tractor-trolley was parked on the side of the road. Driver of the jeep hit the tractor-trolley which was parked. Accident took place due to rash and negligent driving of the jeep's driver Bijender. FIR No.34 dated 31.01.1999 under Sections 279, 337 and 338 IPC was registered at Police Station City Narnaul. The appellant sustained injuries on various parts of his body in the accident. He suffered fracture on the left hand and injuries on the chest. He was removed to Civil Hospital, Narnaul. Subsequently, he took treatment from Pooja Hospital, Narnaul where he remained admitted from 03.02.1999 to 16.02.1999. He was operated upon and a steel rod was inserted in his leg. Appellant could not walk properly and he was again admitted in hospital on 15.03.1999 on account of infection, which had developed pursuant to the injuries and was discharged on 23.03.1999. Subsequently, he again remained admitted in the hospital from 19.04.1999 to 22.04.1999 and thereafter from 13.09.1999 to 14.09.1999. Claimant was subjected to examination by the Board of Doctors to ascertain the percentage of disability. He suffered 30% permanent orthopaedic disability as per disability certificate (Ex.P3). It is claimed that he was an agriculturist, earning Rs.5000/- per month. Compensation was thus prayed for.

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 the offending jeep by its driver Bijender, respondent No.1. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

The learned Tribunal awarded a consolidated sum of Rs.65,000/ on account of the injuries including fracture, disability, pain and sufferings and mental shock etc. Another sum of Rs.20,000/- was awarded towards expenses spent on medicines, medical treatment, special diet, transportation etc. Thus, the appellant was awarded a total sum of Rs.85,000/- along with interest @ 12% per annum from the date of filing of the petition till its realization.

Learned counsel for the appellant submits that the appellant admittedly suffered grievous injuries which led the disability of the lower limb. Learned Tribunal has, thus, erred in awarding a meagre compensation, which requires to be enhanced.

Learned counsel for respondents No.1 and 3/Insurance Company while refuting the said arguments, pray for maintaining the compensation as assessed being justified in the facts and circumstances of the case.

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

It is not in dispute that the claimant suffered injuries in the motor vehicle accident which took place on 31.01.1999. The appellant suffered 30% disability of the lower limb as reflected in the disability certificate (Ex.P3) which was duly proved by PW4 Dr. S.P. Sharma. PW3 Dr. K.K. Yadav proved the copy of the medicolegal report (Ex.P2). The claimant after the accident was taken to Civil Hospital, Narnaul and thereafter, he remained under treatment at Pooja Hospital, Narnaul where he remained admitted from 03.02.1999 to 16.02.1999. Due to infection which developed pursuant to the injuries, he was again admitted in the hospital on 15.03.1999 and discharged on 23.03.1999. He also remained admitted in the hospital from 19.04.1999 to

22.04.1999 besides from 13.09.1999 to 14.09.1999. It is proved on record that the claimant suffered fracture on his left hand and injuries on his chest besides a compound fracture on the left femur for which nailing to 1/3rd was done. The claimant was admittedly 18 years old at the time of accident. It is claimed that he was an agriculturist, earning a sum of Rs.5000/- per month. However, there is no evidence on record to indicate that the appellant was an agriculturist but even if he is assumed to be a daily wager, he would not have been able to pursue his vocation for at least six months keeping in view the nature of injuries suffered by him. As, the minimum wage in the State of Haryana in 1999 was Rs.2000/- per month, the claimant is held entitled to a sum of Rs.12,000/- (Rs.2000 x 6) on account of loss of income. The claimant is also entitled to a sum of Rs.50,000/- each on account of pain and sufferings besides loss of amenities. As the claimant was admittedly unmarried at the time of accident, he is entitled to Rs.25,000/- on account of loss of marriage prospects. Learned Tribunal awarded a sum of Rs.800/- towards medical expenses on the basis of bills of medicines, which were proved. The period of hospitalization on various occasions is not denied. It can reasonably be assumed that the appellant would have incurred at least Rs.5000/-, on account of the medical expenses. Therefore, a sum of Rs.5000/- instead of Rs.800/- is awarded towards medical expenses. Another sum of Rs.5000/- is awarded on account of special diet and transportation charges besides Rs.5000/- for attendant charges.

Thus, the claimant is entitled to compensation as detailed hereunder: -

Sr.No.	Heads of Claim	Rupee
1.	Loss of income	Rs.12,000/-
2.	Pain and sufferings	Rs.50,000/-

3.	Loss of amenities	Rs.50,000/-
4.	Loss of marriage prospects	Rs.25,000/
5.	Special diet and transportation	Rs.5,000/-
6.	Attendant charges	Rs.5,000/-
7.	Medical expenses	Rs.5000/-
Grand Total		Rs.1,52,000/-

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 compensation amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 01.03.2000, present appeal is disposed of.

(LISA GILL)
JUDGE

November 22, 2018
Ishwar

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