

FAO No.4670 of 2005 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4670 of 2005 (O&M)
Date of decision:06.09.2018.

Jai Bhagwan

...Appellant

Versus

Ravinder and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep Parkash Chahar, Advocate for the appellant.
Mr. Vinod Gupta, Advocate and
Mrs. Madhu Sharma, 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 them by Motor Accident Claims Tribunal, Rohtak ('Tribunal' for short) vide award dated 03.06.2005 on account of the injuries and disability suffered by him in a motor vehicle accident which took place on 31.12.2000.

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 in a motor vehicle accident, which took place on 31.12.2000. It has been averred that the claimant/appellant alongwith his daughter-Mohini were travelling in a jeep bearing No.HR-09-2632 being driven by Satish Kumar. They were coming from Ganaur to Rohtak. When they crossed Village Jassia, a truck bearing No.HR-37-6859 being driven by respondent

No.1-Ravinder in a rash and negligent manner came from opposite side and hit the jeep, in which the claimant alongwith Mohini and Satish were travelling. As a result thereof, the occupants of the jeep suffered multiple injuries. The injured were taken to PGIMS, Rohtak for treatment. The claimant remained admitted in the hospital from 31.12.2000 to 02.01.2001. FIR No.1 dated 01.01.2001, under Sections 279/337 IPC was registered against respondent No.1-driver at Police Station Sadar, Rohtak.

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 truck bearing registration No.HR-37-6859 by respondent No.1-Ravinder. This finding of the learned Tribunal has attained finality. The learned Tribunal concluded that the appellant sustained injuries in this accident leading to 8% disability as per Disability Certificate (Ex.P4). The appellant was aged 59 years at the time of the accident. The learned Tribunal awarded a total compensation of Rs.31,000/- i.e., Rs.16,000/- on account of 8% permanent disability and Rs.15,000/- on account of pain and suffering etc.

Learned counsel for the appellant submits that due to the injuries the appellant was left with malunion of right humerus in functional position with restrictive movements of the right shoulder as per the disability certificate Ex.P4. The claimant/appellant suffered 8% permanent disability. Learned Tribunal has awarded a meagre amount of compensation. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3—Insurance Company however prays that the compensation awarded by the learned Tribunal vide impugned award does not call for any enhancement as the same is

reasonable and justified in the facts and circumstances of the case as well as evidence on record.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not in dispute that the claimant/appellant was a Government employee. He was 59 years old at the time of the accident. There is nothing on record to show loss of income incurred by the claimant, neither were any medical bills placed on record except Disability Certificate (Ex.P4). There is nothing on record to indicate that the appellant suffered any specific functional disability which affected his earning capacity. It has been averred that the appellant/claimant became a heart patient and had to undergo by-pass surgery on account of the injuries suffered by him. There is no evidence to prove the same except a bald statement of the appellant himself. The heart condition suffered by the appellant is rightly held by the Tribunal to be unconnected with the accident in question. At the same time, it cannot be ignored that the appellant did suffer the injuries in the accident on 31.12.2000, which led to 8% permanent disability.

In the factual matrix of the case, the appellant is entitled to a sum of Rs.30,000/- instead of Rs.15,000/- on account of pain and suffering. The appellant is also entitled to a sum of Rs.10,000/- towards special diet and attendant charges and another sum of Rs.5,000/- towards transportation. The amount of Rs.16,000/- awarded by the learned Tribunal on account of 8% permanent disability is maintained. Therefore, the appellant is entitled to compensation, which is detailed as under: -

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Pain and suffering	Rs.30,000/-
2.	Special diet and attendant charges	Rs.10,000/-

3.	Transportation charges	Rs.5,000/-
4.	8% Permanent disability	Rs.16,000/-
Grand Total		Rs.61,000/-

The appellant is, thus, entitled to total compensation of Rs.61,000/- along with interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization. Needless to say, the amount already awarded by the Tribunal to the appellant under various heads shall stand deducted from the amount of compensation reworked as above.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(LISA GILL)
JUDGE

September 06, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No