

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

FAO No.2521 of 2009 (O&M)

Date of decision: 20.03.2018

Bobby @ Baby

... Appellant

Versus

Hakam Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. SPS Tinna, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

Bobby @ Baby is in appeal seeking enhancement of compensation on account of injuries sustained by him in a motor vehicular accident that took place on 20.08.2004.

The Tribunal has awarded compensation of Rs.9750/-, detailed in para 20 of the award.

Counsel for the appellant would contend that in the same occurrence, Raj Kumar, brother of Bobby sustained injuries that proved fatal and in regard to death of Raj Kumar, this Court has allowed enhancement of compensation. It is further argued that Bobby sustained five injuries as per injury report mark 13 but compensation awarded by the Tribunal is grossly inadequate.

Counsel representing the insurance company would apprise the Court that as the appeal against respondent No.2, owner of the vehicle has been dismissed vide order dated 16.11.2017, neither the owner nor insurer of the offending vehicle can be held liable even if compensation awarded by the Tribunal is enhanced. However, she has submitted that there is no justification for enhancement of compensation.

I have gone through the award, particularly para 20 thereof that deals with grant of compensation to injured Bobby @ Baby. As per the injury report mark 13, prepared by Dr. Baldev Raj, SMO, Civil Hospital, Phagwara, injured sustained as many as five injuries namely Reddish abrasion on right forearm on different parts scattered 12-13 in numbers varying 2-5 cms., # Right femur with diffuse sculling on right thigh, reddish abrasion on right side of face 5x2 cms., lacerated wound on right side back of ear 2x1 cms. & multiple small reddish abrasion on right ear and bleeding nose & abrasion on nares present. It has also been mentioned therein that patient remained admitted in Civil Hospital, Phagwara from 20.08.2004 till date i.e. 04.10.2004 during which he had undergone orthopaedic surgery and multiple blood transfusion. Injury No.2 was opined to be grievous in nature.

The Tribunal failed to take into consideration that document mark 13, a copy of injury report attested by Medical Officer, Civil Hospital, Phagwara on 04.10.2004. Strict principles of law of evidence are not attracted in the proceedings before the claims Tribunal which are summary

in nature. Taking into consideration number and nature of injuries sustained coupled with period of treatment as an indoor patient along with that the victim suffered fracture of right femur and had undergone orthopaedic surgery and multiple blood transfusion, interest of justice would be served if he is awarded additional amount of Rs.20,000/- on account of pain and sufferings, special diet, transportation charges, services of an attendant and loss of income etc. The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization. It is clarified that liability to pay additional amount shall be of the driver of offending vehicle only.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

20.03.2018

ashok

(REKHA MITTAL)
JUDGE

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