

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

(392)

**FAO-1432-2010 (O&M)
Decided on: February 26, 2018.**

KEWAL KRISHAN

.... Appellant

Versus

CHARANJIT SINGH & ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Arora, Advocate
for the appellant.

None for respondent No.1.

Mr. R.S. Dhull, Advocate,
ICICI Lombard General Insurance Company Ltd.
Respondent No. 2.

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The present appeal has arisen from award dated 25.07.2009 passed by Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal').

Appellant-Kewal Krishan suffered fracture of left hip and injury on right shoulder besides other multiple injuries in a motor vehicle accident that occurred on 31.03.2006. He was sitting on rear seat of a Maruti Van No. CH-01-N-6913. When they reached near the turning of village Bhogomajra, Tehsil Kharar, an Indica Car (the offending vehicle) bearing No. PB-10-BE-4764 came at a fast speed from the opposite direction in a

rash and negligent manner and struck against the van. The appellant was taken to PGI, Chandigarh, where he remained hospitalized from 02.04.2006 to 24.04.2006. He again remained admitted in PGI, Chandigarh from 21.09.2007 to 13.10.2007. During hospitalizations he had undergone surgery and thereafter hip-joint replacement. As a result of injury sustained he was permanently disabled to the extent of 12% qua lower-limb. The medical expenses of ₹ 1,50,000/- were incurred, out of which an amount of ₹ 1,17,395/- was reimbursed as he was a Government servant.

In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') the Tribunal awarded a sum of ₹ 39,000/- along with interest at the rate of 7.05% per annum.

The present appeal has been filed for enhancement of compensation.

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

Learned counsel for the appellant assailed the award by stating that the Tribunal while awarding the compensation has not considered that bills worth ₹ 33,000/- were not reimbursed. His grievance is that the amounts awarded under various heads are on the lower side.

Learned counsel for the Insurance Company defended the award and resisted enhancement.

The fact of hospitalization for almost 45 days has not been disputed. There is no dispute raised that the appellant underwent surgery and hip-replacement also. Though the permanent disability suffered by him has not affected his working yet, in the facts and circumstances of the case,

an amount of ₹ 39,000/- awarded by the Tribunal is enhanced by ₹ 75,000/-.

It is clarified that while awarding this lump-sum enhancement the interest to be awarded under Section 171 of the Act has been taken into consideration.

In case the enhanced amount is paid by the Insurance Company within two months from today there would be no interest payable. But in case of default, the appellant would be entitled to the enhanced amount along with interest @ 9% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

February 26, 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No