

F.A.O. No. 100 of 2011 (O&M)

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

Date of Decision:15.01.2018

(i) F.A.O. No. 100 of 2011 (O&M)

Ranjit Singh Gulati

.....Appellant

Versus

Deepak Kumar Anand and another

.....Respondents

(ii) F.A.O. No. 99 of 2011 (O&M)

Daljit Singh

....Appellant

Versus

Deepak Kumar Anand and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Manjeet Singh, Advocate for
Mr. Sanjiv Gupta, Advocate
for the appellants.

Mr. Subhash Goyal, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J.

This order shall dispose of two FAO bearing Nos.99 and 100 of 2011, as common question of law and facts are involved in them.

The present appeals have been filed against the award dated 17.7.2010 passed by the Motor Accidents Claims Tribunal, Patiala (for short 'Tribunal').

On 15.05.2008 Daljit Singh along with his wife and brother-in-

law were travelling in Maruti Car bearing registration No.PB11-T-0343.

They were going from Patiala to Amritsar. On reaching near Herman Palace, Sirhind road, Patiala, Maruti Swift Car bearing registration No.PB-10-CC-0708 (hereinafter referred to as 'the offending vehicle') came from the opposite side and struck the Car being driven by Daljit Singh. The said Maruti Swift car was being driven in a rash and negligent manner. As a result of the accident, both Daljit Singh and Ranjit Singh suffered injuries. 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.3,35,700/- along with interest at the rate of 6% per annum in case of Daljit Singh and a sum of Rs.4,58,300/- along with interest at the rate of 6% per annum in case of Ranjit Singh.

The present appeals have been filed for enhancement of the compensation.

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

In FAO No. 100 of 2011 counsel appearing for the appellant-**Ranjit Singh** argued that the amount awarded of Rs.4,58,300/- is on the lower side as the amounts awarded by the Tribunal under various heads are meager. He argued that the appellant had produced the bills regarding treatment he had undergone in Australia and the Tribunal erred in not considering some of them.

The contention raised by learned counsel for the appellant with regard to the medical expenses incurred in Australia cannot be accepted as neither any Doctor was examined nor it was proved that such expenses related to the injuries suffered in the accident. It would be pertinent to mention here that nature of the injuries were not proved before the Tribunal

and even no evidence has been adduced for the same. No doctor was examined though it was claimed in the claim petition that the appellant suffered injuries on right femur, intra articular fracture of the left radius and blunt injuries to chest and abdomen. The appellant was able to prove the bills regarding the treatment undergone by him in Primus Ortho and Spine Hospital, Delhi as well as in Australia. From the said bills, it is evident that the appellant had to undergo a prolong treatment.

In such circumstance, the amount awarded by the Tribunal is enhanced by Rs. 42,000/-. It is clarified that while awarding the said amount in lump-sum, the interest to be paid under Section 171 of the Act, has been taken into consideration.

FAO No. 99 of 2011 is case relating to **Daljit Singh**. Counsel for the appellant argued that the injured was hospitalized from 15.5.2008 to 21.5.2008 and thereafter from 8.3.2009 to 12.3.2009. The appellant suffered fracture of both legs and shaft femur. He was operated upon twice i.e. on 16.5.2008 and 19.5.2008. PW4 Dr. Jatinder Kumar of Apollo Hospital, Ludhiana was examined. He proved the injuries and further stated that the appellant was operated upon for removal of plates with distal femoral nailing and bone grafting.

The grievance is that the amounts awarded under various heads by the Tribunal are on the lower side.

In the present case, though there was neither any temporary disability nor permanent disability, yet the nature of the injuries suffered were such that the appellant would have been bed ridden for a long time and suffered pain and suffering. Though his earning and occupation was not proved before the Tribunal, yet with both the legs fractured he would not

have been able to do his daily jobs and even to attend to his work. The Tribunal while awarding the compensation has reimbursed actual amount of bills for medical expenses and has considered loss of earning, loss of pain and suffering, attendant, special diet and various charges. In an endeavour to put the appellant to its original position so far as money can, it would be appropriate to award a sum of Rs.65,000/- over and above the amount already awarded by the Tribunal. It is clarified that while awarding the said amount in lump-sum, the interest to be paid under Section 171 of the Act, has been taken into consideration.

Accordingly, the appeals are partly allowed in the aforesaid terms.

15.01.2018

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No