

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

FAO No.3457 of 2011 (O&M)

Date of Decision: April 18, 2018

Jaswant Singh

...Appellant

Versus

Davinder Singh and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mrs.Gurnam Kaur Turka, Advocate
for the appellant.

Mr.Ankit Aggarwal, Advocate for
Mr.Anupam Singla, Advocate
for respondents – PRTC.

HARINDER SINGH SIDHU, J.

This appeal is filed by the injured- claimant for enhancement of compensation, as awarded by the Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal') vide its award dated 06.08.2010.

Brief facts as disclosed in the claim petition are that on 27.01.2008, appellant Jaswant Singh was driving his TATA four wheeler No.PB-0T-0660 and was on his way from Rajpura to Chandigarh. At about 8.15 pm, when the vehicle reached near J.P.Singla Petrol Pump, Village Rampur Kalan, a PRTC bus No.PB-11AB-5370 came from Chandigarh side, in a very rash and negligent manner and overtaking a trolly, and hit the four wheeler of the appellant. As a result, the appellant suffered injuries and he was shifted to Government Medical College, Sector-32, Chandigarh. He had

suffered multiple injuries on his right elbow, legs and hands and other vital parts of the body. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

On a claim petition having been filed by the injured – appellant, the Tribunal awarded Rs.18,500/- towards medical expenses, Rs.5,000/- as general damages on account of pain and sufferings for grievous injuries, Rs.20,000/- for 'loss of income' and Rs.6,500/- on account of 'special diet and services of attendant etc.'. In all, compensation of Rs.50,000/- along with interest was awarded to the appellant for the injuries suffered by him in the accident.

Feeling dissatisfied with the quantum of compensation, the claimant is before this Court. It is stated that the Tribunal has erred in not awarding any amount under the head of 'transportation' and it also did not assess the loss of income appropriately as the appellant was a driver and the fracture in his legs, rendered him jobless for a long period.

Ld. Counsel for the claimant – appellant has argued that the appellant had suffered multiple injuries. He was admitted in Government Medical College, Sector-32, Chandigarh after the accident on 27.01.2008 and remained there till 30.01.2008. Thereafter, he was got admitted in A.P.Jain Civil Hospital, Rajpura from 09.02.2008 to 26.02.2008. Dr.Harjinder K.Singh Chawla (PW3) stated before the Tribunal that there was fracture in the legs of the appellant and he was operated upon by plating and open reduction internal fixation. He argued that the appellant was working as driver of TATA four wheeler and earning Rs.10,000/- per month.

He received medical treatment till 26.02.2008 as indoor patient. The Tribunal wrongly concluded that he had been unable to perform his routine work only for a period of about two months. In fact, due to the accident, the appellant was not able to return to work as a driver and he should be considered as having been rendered permanently disabled from working as a driver.

It is not possible to accept the contention of the Ld. Counsel that the appellant was rendered permanently incapable of driving on account of the accident. It is primarily so as no disability certificate has been produced on record. Nor is there any other evidence to indicate that he has been rendered permanently incapable of driving. However, considering the nature of the injuries, it can be safely assumed that the appellant would not have been able to resume work as a driver of a transport vehicle for at least six months to one year after the accident.

Accordingly, the compensation is re-assessed as under:-

<i>Sr.No.</i>	<i>Particulars</i>	<i>Amount (In rupees)</i>
1.	<i>Medical Expenses (as awarded by the Tribunal)</i>	18500/-
2.	<i>Pain and suffering</i>	25000/-
3.	<i>Special diet and services of attendant</i>	25000/-
4.	<i>Loss of income</i>	100000/-
5.	<i>Transportation Expenses</i>	10000/-
	<i>Total amount</i>	1,78,500/-

Hence, the appeal is partly allowed. The Award of the Tribunal is modified to the extent that the appellant is held entitled to total compensation of Rs.1,78,500/-, that is, Rs.1,28,500/- (178500-50000) over

and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

April 18, 2018

(**HARINDER SINGH SIDHU**)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No