

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

206

FAO-5427-2011

Date of Decision:21.03.2018

Parmanand

.....Appellant

Versus

Kartar Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Amit Jain, Advocate,
for the appellant.**

None for respondent Nos.1 and 2.

**Mr. D.K. Prajapati, Advocate,
for respondent No.3-Insurance Company.**

HARI PAL VERMA, J.(Oral)

The appellant-claimant has filed the present appeal seeking enhancement of compensation over and above the amount awarded by learned Motor Accident Claims Tribunal, Gurgaon (for short “the Tribunal”) vide award dated 23.03.2011.

In a claim-petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of injuries suffered by the appellant-claimant, the Tribunal has awarded a total compensation of ₹3,25,000/- along with interest @ 6% per annum from the date of filing of the petition till its realization, as under:-

1.	Medical & other expenses	:	₹2,70,000/-
2.	Loss of income	:	₹25,000/-
3.	Pain and sufferings	:	₹30,000/-
	Total	:	₹3,25,000/-

Not satisfied with the aforesaid amount of compensation, the appellant has filed the present appeal, seeking enhancement of compensation.

Learned counsel for the appellant has argued that in the accident which occurred on 25.03.2010, when the appellant was going on his motorcycle bearing registration No.HR-26-Z-8316 to his shop situated in village Kadipur in Gurgaon and had reached near the garden near Police Station, Sector-10, Gurgaon, the offending vehicle i.e. Tavera bearing registration No.HR-55-B-8899 came from the opposite side and hit the motorcycle of the claimant. As a result thereof, the claimant fell down and received multiple serious injuries including fractures right shaft femur and both bones right leg. After the accident, he was taken to Sunrise Hospital, Sector-10, Gurgaon, where he remained admitted from 25.03.2010 to 05.04.2010 and thereafter again remained admitted from 05.05.2010 to 08.05.2010 and 31.05.2010 to 01.06.2010. He has further argued that considering the fact ₹2,70,000/- were paid as medical expenses is sufficient to establish that the injuries were serious in nature. Though the claimant remained admitted in the hospital for the period mentioned above, but the fact remains that his treatment continued for 3-4 months and, therefore, he is entitled for enhancement of compensation on account of attendant and transportation charges etc. For such like injuries, no injured would be able to resume his work immediately after the treatment. Similarly, the amount awarded under the head of pain and suffering does not commensurate to the nature of injuries so suffered.

On the other hand, learned counsel for the respondent No.3-

Insurance Company has argued that taking into consideration the nature of

injuries, the Tribunal has already awarded adequate compensation. The appellant remained admitted in the hospital only on certain dates and not continuously for a period of 3-4 months, therefore, no further enhancement is warranted.

I have heard the learned counsel for the parties.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awardable to the claimant for the injuries so suffered in the accident, which took place on 25.03.2010. There is no dispute that on account of medical and other expenses, the Tribunal has awarded an amount of ₹3,25,000/-. However, the huge expenditure incurred towards medical expenses speaks about the seriousness of injuries suffered by the claimant. In such injuries, no person can re-equip himself to resume work immediately after 2-3 months. Therefore, this Court finds that the claimant must have remained out of job/work for about four months and taking into consideration the fact that he must be earning ₹10,000/- per month, his loss of income is assessed as ₹40,000/- instead of ₹25,000/-. The nature of injuries also suggests prolonged pain and suffering. Therefore, instead of awarded amount of ₹30,000/- towards pain and suffering, this Court finds that ₹40,000/- should be awarded under this head. Since, no amount of compensation has been awarded towards attendant charges, special diet and transportation charges, the claimant is held entitled for an addition of ₹10,000/- on each count i.e. ₹10,000 on account of attendant charges, ₹10,000/- towards special diet and another sum of ₹10,000/- on account of transportation charges.

The Tribunal has awarded interest @ 6% per annum but as held

by the Hon'ble Apex Court in case **National Insurance Company Limited**

Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009, the claimant is held entitled to interest @ 7.5% per annum from the date of filing of the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

March 21, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No