

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM-9855-CII-2018 in/and  
FAO-6512-2011 (O&M)

Date of decision: 14.05.2018

Manmohan Singh

..... Appellant

Versus

Sukhwinder Singh @ Sukha and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

**PRESENT: Mr. Bhim Singh, Advocate for the applicant-appellant.**

Mr. Sandeep Suri, Advocate  
for respondent No. 3-Insurance Company.

**RAMENDRA JAIN, J. (ORAL)**

**CM-9855-CII-2018**

Through this application under Section 151 CPC, prayer has been made for waiver off cost of ₹ 5000/- imposed upon the appellant vide order dated 10.05.2018.

Heard.

The cost of ₹ 5000/- imposed upon the appellant vide previous order dated 10.05.2018, is waived off.

CM stands disposed of.

**FAO-6512-2011 (O&M)**

1. Through this appeal, the appellant-claimant has sought enhancement of compensation, modifying the impugned Award dated 14.11.2013, of the Motor Accident Claims Tribunal, Panchkula (for short-'the Tribunal').

2. In nutshell, the learned Tribunal in a claim petition under Section 166 of the Motor Vehicles Act, 1988, of the appellant for grant of compensation against injuries suffered by the appellant-claimant in a motor vehicular accident occurred on 26.02.2009, had awarded compensation to the tune of ₹ 4,07,450/- to him, vide impugned Award dated 07.05.2011.

3. Learned counsel for the appellant-claimant contends that despite hospitalization of the appellant as an indoor patient twice for 39 days and suffering compound fracture of right leg and comminuted fracture right acetabulum with dislocation of right hip joint, which led to 30% permanent disability as per disability certificate Ex. PW-2/A, the learned Tribunal has awarded a very meagre consolidated sum of ₹ 15,000/- towards pain and sufferings and hospitalization. The learned Tribunal ought to have awarded compensation to the tune of ₹ 1 lakh towards pain and sufferings, besides a sum of ₹ 50,000/- towards hospitalization. The learned Tribunal has also erred in granting very small amount towards special diet to the appellant, without appreciating the lengthy period of his hospitalization of 39 days. The learned Tribunal ought to have granted compensation to the tune of ₹ 60,000/- instead of ₹ 30,000/- towards permanent disability.

4. On the other hand learned counsel for respondent No. 3- Insurance Company, has strongly refuting the above submissions of learned counsel for the appellant-claimant, pleaded the legality and validity of the impugned Award.

5. Having given thoughtful consideration to the submissions made by learned counsel for both the sides, this Court is of the considered view that the learned Tribunal has not granted adequate compensation to the appellant-claimant towards pain and sufferings and hospitalization. As per

evidence on record, a rod was inserted in the leg of appellant-claimant, but nothing has been awarded by the Tribunal to him for his future operation for removal of the said rod.

6. Considering the over all facts and circumstances, an amount of ₹ 2,00,000/- (Rupees Two Lakhs) in *lump sum* is hereby awarded to the appellant-claimant over and above the amount of ₹4,07,450/- already awarded vide impugned Award, under the heads of pain and sufferings, hospitalization, special diet, medical expenses for future operation for removal of rod etc., towards full and final settlement which includes interest component also.

7. Vide impugned Award, the learned Tribunal, held respondents No. 1 and 2, liable to pay the amount of compensation jointly and severally holding that respondent No. 1-Sukhwinder Singh @ Sukha, was not having a valid driving licence and, therefore, terms and conditions of the insurance policy were breached by them. However, respondent No. 3-Insurance Company, was directed to pay the compensation and recover the same afterwards from respondents No. 1 and 2.

8. Respondents No. 1 and 2 have not challenged the above findings of the learned Tribunal, holding them liable to make payment of compensation jointly and severally, exonerating the Insurance Company. Therefore, the same has attained finality.

9. In view of the above, respondent No. 3-Insurance Company is directed to deposit the aforesaid *lump sum* amount of ₹ 2,00,000/- over and above the amount of ₹ 4,07,450/-already awarded vide impugned Award dated 07.05.2011, with the learned Tribunal, within two months from

receipt and identification, in accordance with law, with liberty to it to recover the same from respondents No. 1 and LRs of respondent No. 2, who did not appear, despite their effective service and they were proceeded *ex prate* vide orders dated 30.01.2013 and 09.12.2014, respectively.

10.           FAO stands disposed of, accordingly.

**May 14, 2018**  
*rishu*

**( RAMENDRA JAIN )**  
**JUDGE**

|                                  |               |
|----------------------------------|---------------|
| <b>Whether speaking/reasoned</b> | <b>Yes/No</b> |
| <b>Whether Reportable</b>        | <b>Yes/No</b> |