

**FAO No. 1428 of 2013 (O&M) and
FAO No. 1756 of 2015 (O&M)**

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

**FAO No. 1428 of 2013 (O&M)
DECIDED ON: DECEMBER 17, 2018**

CLARANCE BANSI LAL

.....APPELLANT

VERSUS

GURNAM SINGH AND ANOTHER

.....RESPONDENTS

AND

FAO No. 1756 of 2015 (O&M)

GURNAM SINGH AND ANOTHER

.....APPELLANTS

VERSUS

CLARANCE BANSI LAL

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

**Present: Mr. Sanjay Jain, Advocate
for the appellant in FAO No. 1428 of 2013 and
for the respondent in FAO No. 1756 of 2015.**

**Mr. R.D. Sharma, Advocate
for the appellants in FAO No. 1756 of 2015 and
for the respondents in FAO No. 1428 of 2013**

AVNEESH JHINGAN, J (ORAL)

The award dated 06.09.2012 passed by the Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') has been assailed in two appeals, one by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act') and another by the driver and owner of the truck bearing registration No. PB-13-H-325 (hereinafter referred to as 'offending vehicle'), being aggrieved of quantum of the compensation awarded. Since both the appeals arise from the same award and same accident, these are being disposed of by a common order.

The brief facts of the case are that on 21.08.2009, the claimant (Clarance Bansi Lal) alongwith B.M. Fredricki Prince was going to Moga from his house in a car bearing registration No. PB-10-AW-1619 (hereinafter referred to as 'car'), which was being driven by Anil Kumar. When they reached near Nanaksar gate, the car was struck by a rashly and negligently driven offending vehicle. As a result of the impact, the claimant sustained injuries and was admitted in Dayanand Medical College and Hospital, Ludhiana. FIR No.193, dated 22.09.2009 was registered at Police Station Jagraon, Ludhiana.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner and driver of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹3,64,300/- alongwith interest @ 8% per annum. The amount awarded included ₹2,91,300/- for expenses on treatment.

In the proceedings before the Tribunal, the injuries sustained by the appellant and the medical treatment taken was proved by the examination of Kamaldeep Singh, Clerk, DMC Hospital, Ludhiana who proved certificates Ex.C10, Ex.C11, Ex.C137, Ex.C154 and Ex.C201. He also proved that the claimant remained admitted in the hospital from 21.08.2009 to 15.09.2009 and he was operated twice. The bills produced before the Tribunal for the period subsequent to the hospitalization of the claimant were not considered by the Tribunal as these were not proved.

Heard learned counsel for the parties, perused the paper book and the documents produced by the parties.

Learned counsel for the claimant/appellant contends that the appellant was hospitalized for almost 25 days, yet no amount has been awarded for attendant and for transportation.

Learned counsel for the driver and owner contends that the bills claimed for the period subsequent to the hospitalization show that the claim filed by the claimant was not *bona fide*.

The contention raised by learned counsel for the driver and owner lacks merit.

Learned counsel for the driver and owner has not been able to substantiate that the medical bills subsequent to the period of hospitalization were considered by the Tribunal. Rather, the Tribunal had reimbursed only the bills which pertain to the period of hospitalization and for which an amount of ₹2,91,300/- had been awarded. Merely, claiming certain bills for the period after the hospitalization, which were not substantiated would not be a ground to

dismiss the claim petition.

The contention raised by the learned counsel for the appellant/claimant deserves acceptance.

It is not disputed that the claimant was hospitalized for 25 days, he would have needed an attendant during the said period and keeping in view the fact that he was operated twice the attendant and transportation charges would have been required after the period of hospitalization also.

Taking into consideration the afore-said facts and circumstances, the amount awarded i.e. ₹2,91,300/- for expenses on treatment is enhanced by ₹25,000/- so as to cover the attendant and transportation charges. It is clarified that while enhancing the compensation, the interest to be awarded on the enhanced amount under Section 171 of the Act has been taken into consideration.

In view of above discussion the appeal filed by the claimant i.e. FAO No. 1428 of 2013 is partly allowed and the appeal filed by the driver and owner i.e. FAO No. 1756 of 2015 is dismissed.

DECEMBER 17, 2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No