

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

FAO-1693-2014

Date of Decision:23.01.2018

Suresh Kumar

.....Appellant

Versus

Maha Singh and others

.....Respondents

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

Present: Mr. Anil Kumar Gahlawat, Advocate,
for the appellant.

Ms. Vandana Malhotra, Advocate and
Ms. Monka Jangra, Advocate,
for respondent No.3.

HARI PAL VERMA, J.(Oral)

The claimant-injured has filed the present appeal for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal (for short “the MACT”), Rewari. He has filed a claim-petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of injuries suffered by him in a motor vehicular accident, which took place on 23.07.2011.

As per claim-petition on 23.07.2011, when the appellant-injured was going from his village to attend his duty on a motorcycle and reached near bus stand, Bikaner, in the meantime, the offending vehicle bearing registration No.HR-14E-0795 being driven at a high speed, in a rash and negligent manner reached there from Rewari side. The offending vehicle struck against the motorcycle of the claimant as a result of which, he

sustained multiple grievous injuries. A criminal case bearing FIR No.90 dated 24.07.2011 under Sections 279/337/427 IPC was registered in Police Station, Sadar Rewari, regarding the said accident.

The claimant is working as a Water Pump Operator-2 at Kalaka Water Works, Rewari and was drawing salary of ₹17,500/- per month. The claimant has based his claim on the injuries caused on his person in the accident. As per claimant's medical record, he was operated upon right knee joint, right hand finger, collar bone and also received head injury. He remained admitted in Chirag Hospital, Gurgaon from 23.07.2011 to 01.08.2011. Taking into consideration the nature of injuries and considering the fact that the Medical Board had examined the claimant and found his disability to the extent of 32% on account of restricted movements of right knee with partial loss of stability and pain, the learned MACT has awarded ₹2,03,706/- as compensation, details of which are reproduced as under:-

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|----|---|---|-------------|
| 1. | Compensation on account of permanent/partial disablement to the extent of 32% | : | ₹64,000/- |
| 2. | Pain and sufferings | : | ₹10,000/- |
| 3. | Medical expenses/transportation | : | ₹1,27,706/- |
| 4. | Special diet/attendant charges | : | ₹2,000/- |

Total	:	₹2,03,706/-
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Learned counsel for the appellant has argued that taking into consideration the injuries suffered by the claimant and restricted movements of his right knee, he is not able to perform his duty and day-to-day functions as a normal person. He has argued that the award dated 04.09.2013 is

required to be modified/enhanced, particularly when the nature of injuries was such that he had to suffer pain for a long period. Moreover, no amount of compensation has been awarded to the claimant for transportation and the compensation awarded under the heads of special diet and attendant charges is too meager.

On the other hand, learned counsel for respondent No.3- Insurance Company has argued that adequate compensation has already been awarded and since the claimant is working as a Water Pump Operator and continues to be working as such, there is no financial loss as far as his salary is concerned.

I have heard the learned counsel for the parties.

The accident and injuries are not in dispute. As per medical evidence as adduced in the case, which included disability certificate (Ex.P20), appellant has suffered 32% permanent disability on account of restricted movements of his right knee and partial loss of stability with pain. For such like injuries, pain in the body persists and this Court finds that the compensation awarded is required to be enhanced viz-a-viz pain, suffering, special diet/attendant charges. Similarly, after the appellant suffered an injury in the accident, he was taken to Chirag Hospital, Gurgaon, for which he must have spent a substantial amount on transportation as well as on the follow-up treatment.

Therefore, this Court finds that the amount of ₹10,000/- awarded under the head of pain and suffering should be increased to ₹25,000/-. Likewise, for special diet and attendant charges, a negligible amount of ₹2,000/- has been granted, which is too difficult to be digested.

Therefore, this amount is increased to ₹15,000/-. Similarly, an amount of

₹10,000/- is awarded to the claimant towards transportation charges for undergoing follow-up treatment. Accordingly, the impugned award dated 04.09.2013 is modified in the following manner:-

Compensation on account of disablement	:	₹64,000/-
Medical expenses	:	₹1,27,706/-
Pain and sufferings	:	₹25,000/-
Special diet/attendant charges	:	₹15,000/-
Transportation (follow-up treatment)	:	₹10,000/-

Enhanced amount	:	₹2,41,706/-

The claimant shall also be entitled to interest on the enhanced amount i.e. ₹38,000/- @ 7.5% 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.

January 23, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No