

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.149 of 2015 (O&M)
Date of decision:11.10.2018.

Narender Kumar

...Appellant

Versus

Suresh Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Aditya Yadav, Advocate for the appellant.

Ms. Vandana Malhotra, Advocate for respondent No.3/Insurance
Company.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to him by the learned Motor Accident Claims Tribunal, Narnaul ('Tribunal' for short) vide award dated 17.01.2014 on account of injuries and disability suffered by him in a motor vehicle accident on 10.06.2013.

Brief facts necessary for adjudication of the case are that a petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking compensation on account of the injuries and disability suffered by him. The appellant was involved in a motor vehicle accident on 10.06.2013 when he alongwith his brother-in-law Mahender was going from his Village to Mohindergarh on a motorcycle bearing No.HR-34F-6538 being driven by Mahender. The appellant was a pillion rider. At about 1/1.30 p.m. when they reached near fountain agency, the offending pickup bearing No.HR-66A-3570 being driven by its driver/respondent No.1 in a rash and

negligent manner came from the opposite side and respondent No.1 could not control his vehicle and steered on wrong side and hit against the said motorcycle. They fell down and the claimant sustained multiple and grievous injuries. FIR No.249 dated 26.06.2013 under Sections 279 and 337 IPC was registered at Police Station Mohindergarh. It was pleaded that the appellant was 23 years old and was a student of BA-II year at the time of accident. He used to do tuition work and thereby was earning Rs.10,000/- per month. Compensation was, thus, prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

After considering the nature of injuries and fracture sustained by the appellant, the period of admission and treatment in the hospital, the learned Tribunal awarded a sum of Rs.25,000/- towards pain and sufferings. Another sum of Rs.12,000/- was awarded on account of expenditure incurred on special diet, attendant services and transportation. A sum of Rs.26,000/- was awarded for medical expenses. A total sum of Rs.63,000/- along with interest @ 7.5% per annum was awarded by the learned Tribunal as compensation to the claimant. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant submits that he was a young man and a student of BA-II year at the time of accident. He used to take tuitions and was earning Rs.10,000/- per month. He had qualified the tests of ITBP and CRPF and was called for interview but due to the injuries he could

not qualify the physical tests and was deprived of the job. Therefore, he is entitled to compensation for on account of pain and suffering and other heads.

Learned counsel for the Insurance Company prays for upholding the award passed by the learned Tribunal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Perusal of the evidence reveals that the learned Tribunal has correctly observed that as per admit card for recruitment of Head Constable in ITBP (Ex.P21), date of physical test was mentioned as 13.05.2013 and as per letter issued by the Deputy Inspector (Ex.P22), date of examination was mentioned as 01.05.2013. The accident took place on 10.06.2013. Thus, physical test for the post of Head Constable in ITBP was before the date of accident. There is nothing on record to indicate that the appellant was called for interview for the post of Head Constable in CRPF and was disqualified by the Recruitment Board due to the injuries suffered by him in the accident. Learned counsel for the appellant is unable to point out any evidence to show that the claimant suffered any permanent disability on account of the injuries suffered in the accident. As per discharge card (Ex.P27) of PGIMS, Rohtak, the appellant suffered fractures of both bones of the legs. Permanent disability is not proved on record. Furthermore, there is no evidence on record to reflect loss of earning, loss of future earning on account of the injuries as above.

However, keeping in view the facts and circumstances of the case, the claimant is entitled to Rs.50,000/- instead of Rs.25,000/- on account of pain and suffering. Instead of the consolidated sum of Rs.12,000/-

for special diet, attendant services and transportation, the appellant is held entitled to Rs.10,000/- for attendant charges and transportation besides a sum of Rs.10,000/- on account of special diet. Compensation of Rs.26,000/- awarded on account of medical expenses by the learned Tribunal on the basis of the evidence on record is maintained. The appellant is, thus, entitled to total compensation of Rs.95,000/-, the details of which are as under: -

Sr.No.	Heads of Claim	
1.	Pain and suffering	Rs.50,000/-
2.	Attendant charges and transportation	Rs.10,000/-
3.	Special diet	Rs.10,000/-
4.	Medical expenses	Rs.26,000/-
Grand Total		Rs.96,000/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 17.01.2014, present appeal is disposed of.

(LISA GILL)
JUDGE

October 11, 2018
Ishwar

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No