

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

FAO-5003-2013 (O&M)

Date of Decision:04.04.2018

Ashish Kumar

.....Appellant

Versus

Harjinder Singh and others

.....Respondents

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

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate,
for the appellant.

Mr. Sanjeev Goyal, Advocate,
for respondent No.11-Insurance Company.

HARI PAL VERMA, J.(Oral)

CM-21208-CII-2013

Prayer in this application is for condonation of 96 days' delay
in filing the appeal.

For the reasons stated in the application, same is allowed and
the delay of 96 days in filing the appeal, is condoned.

FAO-5003-2013

Appellant-injured has filed the present appeal against the award
dated 07.03.2013 passed by learned Motor Accident Claims Tribunal,
Kurukshetra (for short "the Tribunal"), whereby in a claim-petition filed
under Section 166 of the Motor Vehicles Act, 1988, on account of injuries
suffered by him in a motor vehicular accident, which took place on

02.07.2010, the Tribunal has awarded a total compensation of ₹1,11,000/-.

As per claim-petition on 02.07.2010, appellant/claimant Ashish Kumar was going from village Ismailabad to village Rewa on a motorcycle bearing registration No.HR-07P-0586 at a normal speed. His relative Mandeep Singh was a pillion rider. They were followed by Ram Kumar son of Naib Singh and Swaran Kumar son of Tej Ram. When they reached near godown of Bhagwan Dass on Shahbad-Barara road, the offending tractor bearing registration No.HR-33-5074 came from the opposite side in a rash and negligent manner, at a very high speed. Claimant took his motorcycle on the 'kacha' portion on the left side, but the offending vehicle struck against the motorcycle. Both the occupants of the motorcycle fell down and sustained injuries. After the accident, the driver of the offending vehicle fled away from the place of occurrence after leaving the offending vehicle. Both the injured were shifted to CHC, Shahbad, where Mandeep Singh was declared dead, whereas claimant-Ashish Kumar was referred to PGI, Chandigarh. An FIR No.244 dated 03.07.2010 under Sections 279, 337, 304-A IPC was registered in this regard.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awardable to the claimant-injured. On account of nature of injuries suffered by claimant-injured Ashish Kumar, he was referred to CHC, Shahbad. He got fracture on his maxilla and mandible bones, both bones of right forearms and fracture on right hand metatarsal bones. After the accident, the injured was taken to CHC Shahbad, thereafter he was shifted to Government Medical College & Hospital, Sector -32, Chandigarh, where he remained admitted as indoor patient from 02.07.2010 to 15.07.2010. Dr. R.L. Arya assessed the disability of the appellant-injured

as 7%. This assessment was post operative restricted movements of right wrist and post traumatic Numb Ness of right foot. The Tribunal has awarded the following compensation to the appellant-injured:-

a)	Disability (7%) @ Rs.2000/-	:	Rs.14,000/-
b)	Loss of income	:	Rs.27,500/-
c)	Medical bills	:	Rs.19,336/-
c)	Pain & suffering	:	Rs.20,000/-
d)	Misc.	:	Rs.30,000/-
	Total	:	Rs.1,10,836/-
	rounded off	:	Rs.1,11,000/-

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

Learned counsel for the appellant has argued that on account of injuries suffered by him in the accident, he remained admitted in the hospital for about 15 days and suffered 7% disability. For the injuries suffered, he had to remain out of livelihood for a long time. The Tribunal has awarded a total compensation of Rs.1,11,000/- and out of which, an amount of Rs.19,336/- was towards medical expenses. After the injury, he was confined to bed for a long time and in order to re-equip himself so as to resume his work, he had to take special diet, attendant and transportation but the Tribunal has not granted amount in this respect.

On the other hand, learned counsel for respondent No.11- Insurance Company has argued that adequate compensation has already been granted to the appellant-injured vis-a-vis injuries suffered by him.

I have heard the learned counsel for the parties.

This Court finds that the appellant-injured is a young boy of 22 years and remained in the hospital for about 15 days. The Tribunal has awarded total amount of Rs.30,000/- towards miscellaneous head, whereas no amount has been given under the heads of special diet, attendant and transportation charges. Therefore, the compensation awarded by the Tribunal is increased for another sum of Rs.20,000/- under the head of special diet, attendant and transportation charges.

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

Since the appeal has been filed after a delay of 96 days, the appellant-claimant shall not be entitled to interest for the delayed period.

With the aforesaid addition of Rs.20,000/- towards special diet, attendant and transportation charges in the award, the present appeal stands disposed of.

April 04, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No