

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

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FAO No.5383 of 2013 (O&M)

Date of decision: 11.07.2018

JAN MOHD.

... Appellant

Versus

VEDBIR SINGH AND ORS

... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Barjinder Singh, Advocate for the appellant.

Mr. R.C. Gupta, Advocate for the insurance company.

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**REKHA MITTAL, J. (Oral)**

**CM No.22891-CII of 2013**

Heard.

Allowed as prayed for. Delay of 30 days in filing the appeal stands condoned.

**Main Case**

Jan Mohd. is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 08.07.2011.

The Tribunal has awarded compensation of Rs.1,39,273/-, detailed hereunder:-

- |                                         |               |
|-----------------------------------------|---------------|
| 1. Medical expenses                     | Rs.1,19,273/- |
| 2. Pain and sufferings                  | Rs.15,000/-   |
| 3. Special diet and transportation etc. | Rs.5000/-     |

Counsel for the appellant would urge that compensation awarded by the Tribunal qua pain and sufferings, special diet and transportation etc. is on lower side. It is argued that the injured suffered depressed fracture involving frontal bone of left side and left orbit place reflected in NCCT record Ex.P43. He remained admitted in Pushapanjali Hospital, Gurgaon for a period of 10 days but the Tribunal has not awarded

any compensation for loss of income during the period of treatment and recovery.

Counsel representing the insurance company has supported the assessment made by the Tribunal.

The Tribunal, in para 21 of the award has noticed the injuries sustained by the victim, reflected in the report of NCCT Head Ex.P43. There is no rebuttal to testimony of the injured that he remained hospitalised for a period of 10 days. Taking into consideration the nature of injuries sustained coupled with period of treatment as an indoor patient, claimant is awarded loss of income of Rs.10,000/- for a period of two months. He is allowed additional sum of Rs.5000/- qua services of an attendant and Rs.5000/- for special diet and transportation. In this manner, additional compensation of Rs.20,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The Tribunal has allowed right of recovery in favour of the insurer against respondents No.1 and 2 before the Tribunal on the premise that the driver did not possess a valid licence. It has not been denied by counsel for the insurance company that there is no privity of contract between the insurer and the driver, therefore, right of recovery given against the driver cannot be allowed to sustain and accordingly set aside.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

**(REKHA MITTAL )**  
**JUDGE**

11.07.2018  
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Whether speaking/reasoned:  
Whether reportable:

Yes / No  
Yes / No