

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

FAO No.5714 of 2014(O&M)

Date of decision: 4.4.2018

Kuldeep SinghAppellant

VERSUS

Vijay Kumar and othersRespondents

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

Present: Mr. Avinash Chander Jain, Advocate for the appellant.

 Mr. Pardeep Kumar, Advocate for respondent No.3.

REKHA MITTAL, J.

The injured is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Amritsar in short 'the Tribunal') on account of injuries sustained by him in a motor vehicular accident that took place on 05.05.2011.

The Tribunal has awarded compensation of Rs.2,45,000/- detailed herein:-

Medical expenses	Rs.1,25,000/-
Loss of income during period of treatment and recovery	Rs.30,000/-
Special diet	Rs.10,000/-
Attendant charges	Rs.10,000/-
Compensation for disability	Rs.20,000/-
Mental and physical shock, pain and sufferings and loss of amenities of life	Rs.20,000/-
Loss of expectation of life	Rs.20,000/-

Inconvenience, discomfort, disappointment,
frustration and mental stress Rs.10,000/-

Counsel for the appellant would argue that the injured suffered fracture of left hip joint rendering him disable to the extent of 10%. Dr. Kulwinderjit Singh, Medical Officer, Dr. Hardas Singh Orthopaedic Hospital, Amritsar PW-2 was examined to prove nature of injuries sustained, period of hospitalization and expenses incurred on treatment when the claimant was under treatment of Dr. Hardas Singh Orthopaedic Hospital. Dr. Charanjit Singh, Medical Officer, Civil Hospital Sultanpur Lodhi has proved disability certificate Ex.PW-04/A qua assessment of disability to the extent of 10%. It is argued with vehemence that keeping in view the nature of injuries sustained coupled with period of treatment as an indoor patient along with that injured has been left disable to the extent of 10%, compensation awarded by the Tribunal is on lower side and needs enhancement.

Counsel representing the insurance company, on the other hand, has supported assessment made by the Tribunal.

Dr. Kulwinderjit Singh PW-2 brought the treatment file Ex.PW-02/A. He has deposed that patient had fracture on his hip joint. He was admitted in the hospital on 05.05.2011 and discharged on 17.05.2011. Perusal of the treatment file Ex.PW-02/A makes it manifest that except fracture of hip joint, there was no other injury noticed by the doctors.

The Tribunal has noticed that claim of the injured with regard to medical expenses to the tune of Rs.1,21,882/- is supported by bills Ex.P1 to P6 but the Tribunal has awarded an amount of Rs.1,25,000/-.

Counsel for the claimant has failed to advance any argument justifying

enhancement of compensation under this head. Compensation awarded by the Tribunal with regard to loss of income, special diet and attendant charges also appears to be just and reasonable.

The Tribunal has awarded an amount of Rs.20,000/- qua 10% disability at the rate of Rs.2000/- per percent. Dr. Charanjit Singh PW-4 in the opening line of his cross examination has stated that the disability is not permanent in nature but temporary in nature. He has further admitted that the patient can walk about and work like a normal person except that he cannot lift heavy weight. Taking into consideration the facts elicited in cross examination of Dr. Charanjit Singh, compensation awarded by the Tribunal in respect of temporary disability of 10% cannot be faulted with.

The Tribunal has awarded an amount of Rs.50,000/- under non-pecuniary heads. Taking a cumulative view of the materials on record, there is no justification for enhancement of compensation under non-pecuniary heads as well.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

APRIL 4th, 2018
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no

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Reserved

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