

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

FAO No. 5886 of 2014

DECIDED ON: NOVEMBER 14, 2018

KISHAN MONGA

.....APPELLANT

VERSUS

RADHEY SHYAM AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Dheeraj Narula, Advocate
for the appellant.

Mr. D.P. Gupta, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (ORAL)

This appeal has been filed against the award dated 26.10.2013 passed by Motor Accident Claims Tribunal, Sirsa (for short 'the Tribunal'). The appeal has been filed for enhancement of the compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

2. Appellant suffered injuries in a motor vehicular accident that took place on 09.03.2012. The driver of truck/trolla bearing registration No. RJ-13-G-8373 (hereinafter referred to as 'offending vehicle'); owner and insurer of

offending vehicle have been arrayed as respondents No.1 to 3, respectively, in the appeal.

3. The brief facts of the case are that on 09.03.2012, appellant-Kishan Monga alongwith Rajender Kumar, Gopal Dass and Des Raj was going to Delhi to attend a Satsang. They were travelling in a car bearing registration No. HR-24-N-6171. When they reached village Dariyapur, offending vehicle which was being driven in a rash and negligent manner suddenly applied brakes without giving any indication/signal, as a result thereof, the car in which the appellant was travelling rammed into the rear side of the offending vehicle. Appellant suffered serious injuries including fracture. FIR No. 124, dated 09.03.2012, under Sections 279, 336, 337, 338 and 304-A of the Indian Penal Code was registered.

4. A claim petition under Section 166 of the Act was filed by Kishan Monga.

5. The Tribunal after considering the medical expenses which were proved on record and taking into account the amount spent on physiotherapy, awarded a sum of ₹3,77,400/- alongwith interest @7.5% per annum from the date of filing of the petition till realization. The details of amount awarded under various heads are mentioned as below:

Head	Compensation awarded
Mental suffering and physical agony	₹42,500/-
Calcium diet for bone injury	₹2,000/-
Attendant charges	₹2,000/-
Loss of income	₹50,000/-
Medical Expenses	₹2,80,899/-
Total	₹3,77,399/-

6. Heard learned counsel for the parties, perused the paper book and record.

7. Learned counsel for the appellant contended that the appellant suffered fractures in both his thighs and jaw for which he was operated upon four times. He further contended that only Ambulance charges have been granted. No amount has been awarded for transportation. The grievance is that the amounts awarded on account of special diet, attendant charges and for pain and sufferings are on lower side.

8. Learned counsel for the insurer argued that the appellant was hospitalized for 18 days only and there is no permanent or temporary disability, hence, no case is made out for further enhancement.

9. Considering the nature of injuries suffered by the appellant as well as the fact that he had to be operated upon four times, he was hospitalized twice and remained in two different hospitals for 18 days. For the fractures in thighs and jaw, he would have required transportation and attendant not only during the period of hospitalization but thereafter, also. For speedy recovery of the fractures and for post operational care, special diet is bound to be given. The pain and suffering of the appellant would have continued till he recovered fully.

10. Keeping in view the facts and circumstances of the case, the amount awarded by the Tribunal is enhanced by ₹ 50,000/- to cover up the amount spent on special diet, attendant, transportation and to compensate for pain and suffering. It is, however, clarified that the enhanced amount has been arrived at, considering the interest under Section 171 of the Act. Learned counsel for the insurer shall pay the enhanced amount within eight weeks' from today. In

case of failure, the appellant shall be entitled to interest as awarded by the Tribunal from the date of filing of claim petition till realization.

11. The appeal is partly, allowed.

NOVEMBER 14, 2018

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No