

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5841 of 2015 (O&M)
Date of decision:29.10.2018.

Naseer

...Appellant

Versus

Ganga Vishan Tyagi and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashish Gupta, Advocate for the appellant.

Respondents No.1 and 2 proceeded against ex parte.

Mr. Eklavya Kumar, 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, Mewat ('Tribunal' for short) vide award dated 29.08.2014 on account of injuries and disability suffered by him in a motor vehicle accident on 19.04.2013.

Brief facts necessary for adjudication of the case are that a petition under Section 166 of the Motor Vehicles Act, 1988 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 18.04.2013 when he along with Sahroon, driver and Sajid, cleaner were going to Delhi from Gujarat after loading glass in a truck bearing No. HR-55-8718. The truck was being driven by Sahroon at a moderate speed on the left hand side of the road. When they reached near the statue of Sahid Ram Kumar in the area of Beror on NH-8 on 19.04.2013, the driver (respondent No.2) of another vehicle bearing No.RJ-01GA-5157 suddenly

applied brakes with full force, without any indication. As a result thereof the vehicle of the petitioner struck against the offending vehicle. Appellant sustained multiple injuries on his person along with fracture on his both legs while Sajid sustained injuries on his head on account of the said accident. The accident took place solely due to the rash and negligent driving of respondent No.2. Due to the accident, appellant remained admitted in CHC Behror and Kailash Hospital, Behror w.e.f 19.04.2013 to 02.05.2013 and was operated upon as well. His legs were shortened and after the accident the appellant faced difficulty in sitting and walking. The appellant was permanently disabled. It was pleaded that the claimant at the time of accident was driver by profession with M/s Deepak and Company and used to earning Rs.10000/- per month. He claimed to be the second driver on vehicle No. HR-55-8718. Compensation was, thus, prayed for.

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 the 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.

The learned Tribunal awarded a sum of Rs.1,15,000/- for medical expenses. Another sum of Rs.10,000/- was awarded for physical and mental pain suffered by the claimant and Rs.5000/- each for transportation and special diet. Total compensation of Rs.1,35,000 was awarded to the appellant along with interest at the rate of 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellant submits that no compensation has been afforded to the appellant towards loss of income. Less compensation has been afforded on account of pain and sufferings as well as

special diet and transportation. Nothing has been awarded on account of attendant charges. It is thus prayed that compensation amount may be enhanced.

Learned counsel for the Insurance Company prays for upholding the compensation being justified in the facts and circumstances of the case.

I have heard learned counsel for the parties and have gone through the file.

The appellant claimed to be a driver by profession, earning Rs.10,000/- per month while under the employment of M/s Deepak and Company. However, there is no evidence on record to indicate his income while being engaged as a driver with the above said Company. It is fairly conceded that even the driving license of the claimant was not produced on record. Moreover, it cannot be lost sight of that even minimum wage of an unskilled labourer at the time of accident in the State of Haryana was Rs.4967/- per month. It is considered appropriate to assess the income of the appellant to be Rs.5000/- per month. Keeping in view the injury suffered by the appellant, he is entitled to a sum of Rs.15,000/- as loss of income i.e. the income for three months, during which period, in all probabilities, he would not have been able to attend his work. Sum of Rs.1,15,000/- awarded on account of medical expenses is maintained. A sum of Rs.50,000/- instead of Rs.10,000/- is awarded towards pain and sufferings and Rs.15,000/- (instead of Rs.5000/- for special diet) for special diet and attendant charges is awarded. It is noticed that the accident in question took place in the area of village Behror (Rajasthan). The appellant was admitted at Civil Hospital, Behror and thereafter he got treated at Behl (Rajasthan). However, the claimant is admittedly a resident of Village AK, District Mewat. A sum of

Rs.10,000/- instead of Rs.5000/- is awarded on account of transportation charges.

Thus, the claimant is entitled to compensation as detailed hereunder: -

Sr.No.	Heads of Claim	
1.	Medical expenses	Rs.1,15,000/-
2.	Pain and sufferings	Rs.50,000/-
3.	Loss of income (@5000 PM x 3 months)	Rs.15,000/-
4.	Special diet and attendant charges	Rs.15,000/-
5.	Transportation	Rs.10,000/-
Grand Total		Rs.2,05,000/-

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 29.08.2014, present appeal is disposed of.

(LISA GILL)
JUDGE

October 29, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No