

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 7637 of 2014(O&M)

Date of Decision: October 17 , 2018.

Nitesh Garg

..... APPELLANT (s)

Versus

Balwant and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. J.P.Sharma, Advocate
for the appellant.

Mr. M.B.Jain, Advocate
for respondent No.2 – Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to him by the learned Motor Accident Claims Tribunal, Narnaul (for short, the 'Tribunal') vide impugned award dated 21.05.2014 on account of the injuries and disability suffered by him in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that a petition under Section 166 of Motor Vehicles Act (for short, the 'Act') was preferred by

the appellant seeking compensation on account of the injuries and disability suffered by him in a motor vehicle accident, which took place on 28.01.2012. FIR No.62 dated 22.02.2012 (Ex.PW1/A) was lodged against respondent No.1- Balwant. The 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 tempo (three-wheeler) bearing No. HR-66-9599 by respondent No.1 – Balwant. The finding of the learned Tribunal in this respect has attained finality.

The learned Tribunal concluded that the appellant sustained injuries in this accident leading to 5% permanent disability of the limb. A sum of ₹18,230/- was awarded on account of medical expenses and hospital charges. ₹6,000/- was awarded towards transportation charges, besides, ₹5,000/- towards pain and suffering, special diet and attendant charges. A sum of ₹10,000/- was awarded on account of disability suffered by the appellant. The learned Tribunal awarded a total compensation of ₹39,230/-. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant argues that a meagre compensation has been awarded whereas, the appellant was 21 years old young person at the time of the accident. He was a student pursuing the diploma of Mechanical Engineering in a polytechnic college. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3 – Insurance Company however submits that the compensation awarded by the learned Tribunal is reasonable and as per the evidence on record.

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

the file.

It is noticed that the appellant was involved in a motor vehicle accident which took place on 28.01.2012. As per the medical evidence on record i.e., MLR (Ex.PW2/E), the appellant suffered an injury primarily on the the big toe of the left foot. This led to permanent disability of 5% of the limb as per the Disability Certificate (Ex.P9). Learned counsel for the appellant is unable to deny that there is no functional disability which may have been suffered by the appellant. Therefore, compensation of ₹10,000/- awarded on account of permanent disability is upheld. A sum of ₹18,230/- on account of medical expenses as well as ₹6,000/- towards transportation on basis of the evidence on record is upheld as well. However, award of a consolidated sum of ₹5,000/- on account of pain & suffering, special diet alongwith attendant charges is not justified. The appellant is held entitled to a sum of ₹10,000/- on account of pain and suffering. He is entitled to ₹5,000/- towards attendant charges and another sum of ₹10,000/- on account of special diet.

The appellant is, thus, entitled to compensation, which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Permanent disability	₹10,000
2.	Medical expenses	₹18,230
3.	Pain and sufferings	₹10,000
4.	Attendant charges	₹5,000
5.	Special diet	₹10,000
6.	Transportation	₹6,000
Grand Total		₹59,230/-

Amount already awarded by the Tribunal to the appellant/claimant

under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

October 17 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No