

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

FAO-7707-2014

Date of Decision:03.04.2018

Baldev Singh

.....Appellant

Versus

Manoj Kumar and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Ms. Parveen Maan, Advocate for
Mr. R.S. Budhwar, Advocate,
for the appellant.**

**Mr. Yogesh Gupta, Advocate,
for respondent No.3-Insurance Company.**

HARI PAL VERMA, J.(Oral)

Appellant has filed the present appeal seeking enhancement of compensation over and above the amount awarded by learned Motor Accident Claims Tribunal, Ambala (for short “the Tribunal”) vide award dated 08.11.2013.

In a claim-petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of injuries suffered by the appellant-injured in a motor vehicular accident, which took place on 02.11.2010, the Tribunal has awarded a total compensation of ₹78,000/- along with interest @ 7.5% from the date of filing the claim-petition till its realization.

As per the claim-petition on 02.11.2010, the claimant along with his brother Dalip Kumar was going on a motorcycle bearing registration No.HR-02K-8106 from village Mullana to Alipur. The

appellant-injured was driving the vehicle and when they reached near Palak Dhaba, village Rukri, a Tavera car bearing registration No.HR-58A-1007 being driven by respondent No.1, came from the opposite side i.e. Jagadhri side in a rash and negligent manner, at a high speed and hit the motorcycle of the appellant-injured. As a result thereof, the appellant and his brother Dalip Kumar fell down on the road and they sustained injuries. In the said accident, Dalip Kumar succumbed to his injuries on 07.11.2010. The appellant was taken to M.M. Medical College & Hospital, Mullana and after giving first aid, he was referred to PGI, Chandigarh. He remained admitted in hospital for more than two months where operation of his leg and arm was done. The claimant was about 28 years of age, doing the business of selling boiled eggs and chicken on a Rehri. For the injuries so suffered by him, he remained admitted in PGI, Chandigarh from 11.11.2010 to 09.12.2010 as is apparent from the discharge and follow-up card, Ex.P-91. The Tribunal has awarded a total compensation of ₹77,858/ rounded off to ₹78,000/- in the following manner:-

1.	Medical expenses	:	₹63,658/-
2.	Pain & suffering	:	₹10,000/-
3.	Loss of income	:	₹4,200/-

Total : ₹77,858/-

Not satisfied with the aforesaid amount of compensation, the appellant-injured has preferred the present appeal seeking enhancement of compensation.

Learned counsel for the appellant has argued that compensation awarded by the Tribunal vis-a-vis the injuries suffered by him is on the lower side. No amount has been awarded by the Tribunal towards

transportation and special diet. Even the amount awarded towards the pain and sufferings and loss of income is on the lower side.

Learned counsel for respondent No.3-Insurance Company has argued that adequate compensation has already been granted and except a mere statement made by the appellant there is no evidence as regards the nature of injuries so suffered by the appellant in the accident. Since he remained admitted in PGI, Chandigarh for one month, the Tribunal has awarded ₹4,200/- for the loss of income. There is no permanent disability to the appellant which may further lead to enhancement of compensation.

I have heard the learned counsel for the parties.

As per claim-petition, the appellant-injured suffered injuries on his head, left leg and arm in the accident, which took place on 02.11.2010. After getting first aid from M.M. Medical College & Hospital, Mullana, the claimant was shifted to PGI, Chandigarh, where he remained admitted for about one month. His admission in PGI, Chandigarh, after getting first aid from M.M. Medical College & Hospital, Mullana, sufficiently establishes the nature of injuries suffered by the claimant. The injuries suffered by the claimant must not be simple in nature rather grievous, which require the admission of the claimant for about one month or so in the PGIMER, Chandigarh. The Tribunal has awarded an amount of ₹10,000/- towards pain and sufferings, whereas an amount of ₹4,200/- was granted on account of loss of income. This Court finds that the amount awarded under the head pain and sufferings needs to be enhanced to ₹20,000/-, particularly when he remained admitted in the PGIMER, Chandigarh, for about one month. Therefore, it can safely be presumed that he was not in a physical condition to resume his work immediately after a stay of about one month in PGI,

Chandigarh, he would have required rest for at least three months. Therefore, loss of income is increased to ₹18,000/- @ ₹4,500/- per month for a period of four months. Considering the fact that he stayed in PGI, Chandigarh for about a month, an amount of ₹15,000/- is awarded towards transportation and attendant charges, whereas ₹10,000/- is awarded towards special diet.

Accordingly, this Court finds that the claimant is held entitled to compensation in the following manner:-

1.	Medical Expenses	:	₹63,658/-
2.	Pain & sufferings	:	₹20,000/-
2.	Loss of income	:	₹18,000/-
3.	Transportation and attendant charges	:	₹15,000/-
4.	Special diet	:	₹10,000/-
Total			----- ₹1,26,658/-

Thus, the award passed by the Tribunal is modified and claimant is held entitled to compensation amounting to ₹1,26,658/- against the awarded amount of ₹78,000/- by the Tribunal. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of claim petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

April 03, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No