

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

FAO-6481-2015 (O&M)
Date of decision: 28.02.2018

Narender

... Appellant

VS

Bijender & ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Puneet Singh, Advocate for
Mr. A.K.Goel, Advocate
for the appellant.

Mr. J.S.Saneta, Advocate
for respondent Nos.1 and 2.

Mr. M.B.Jain, Advocate
for the insurance company.

Hari Pal Verma, J.(Oral)

CM-20303-CII-2015

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 529 days in filing the present appeal.

In the application, it has been pleaded that apart from the fact that the appellant is a poor person, he came to know about the decision of the Tribunal dated 14.11.2013 in the last week of July, 2015 when he approached the trial Court counsel to ascertain the status of proceedings of the case. It is thereafter he contacted the present counsel to file the present appeal.

For the reasons stated in the application, same is allowed and the delay of 529 days in filing the instant appeal is condoned.

FAO-6481-2015

The claimant has filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accident Claims Tribunal, Bhiwani (in short 'the Tribunal') vide award dated 14.11.2013.

The appellant had filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for grant of compensation on account of injuries suffered by him in a Motor Vehiclular Accident, which took place on 14.01.2013. The Tribunal after considering all aspects awarded a total compensation of Rs.64,806/- along with interest @ 6% per annum from the date of filing of the claim petition till its realisation.

Admittedly, the accident and other liabilities are not in dispute in the present appeal. What is in dispute is quantum of compensation.

Due to impact of the accident, co-passenger Pawan Kumar died while the appellant-claimant Narender and Ram Chander received multiple and grievous injuries. FIR No.18 dated 14.01.2013 was also registered under Sections 279, 337 and 304-A IPC at Police Station Sadar Dadri in this regard. The appellant was taken to General Hospital, Charkhi Dadri from where he was referred to PGIMS, Rohtak and he remained admitted there for 10 days. In the accident, both of his legs were fractured and he had to undergo three operations. The Tribunal has awarded the compensation to the appellant-injured in following manner:

17. Now coming to quantum of compensation in claim petition No.78 of 2013 titled as Narender vs. Bijender etc., claimant Narender himself stepped into the witness box as PW3 and filed his sworn affidavit Ex.PW3/A deposing that after the accident, he was taken to General Hospital, Charkhi

Dadri, where concerned Medical Officer prepared his MLR but due to serious injuries, he was referred to PGIMS, Rohtak where he remained admitted from 14.01.2013 to 20.01.2013. In this accident, both of his legs were fractured and three operations were conducted by the doctor. He has already incurred a sum of Rs.1,00,000/- on his treatment and a sum of Rs.2,00,000/- was required for his further treatment. He further deposed that at the time of accident, he was running the shop of Parchuni and earning Rs.20,000/- per month, but due to injuries, he has become permanent disabled as iron rod/plate was inserted in his leg. Now he is unable to do anything and lost his income. Besides this, the claimant has also placed on record medical bills mark A to mark C. thus, from the evidence on record, the claimant is entitled to the amount of bills placed on the record. However, no evidence has been produced by the claimant to prove that he suffered any permanent disability. As per copy of medico-legal report Ex.P4, the claimant suffered eight injuries and hence, he must have spent something on special diet, transportation and attendant etc. As per follow up and discharge card Ex.P5, petitioner Narender remained admitted in PGIMS, Rohtak for seven days i.e. from 14.01.2013 to 20.01.2013 and during this period he was operated upon. Therefore, the claimant is also entitled for compensation for pain and sufferings. Hence, in such circumstances, the total compensation amount is assessed as under:

1	Medical Bills and treatment charges	Rs.14,806/-
2	Costs of transportation, special diet, attendant and loss of income	Rs.30,000/-
3	Pain and sufferings	Rs.20,000/-
	Total	Rs.64,806/-

Learned counsel for the appellant has argued that the Tribunal has not awarded adequate compensation for the injuries suffered by the appellant. Both the legs of the appellant were fractured and he had to

undergo three operations on three different occasions. He has further argued that after such a serious accident, the injured like the present appellant has to take complete rest for a considerable period. No person with such like injuries can join his work soon after the surgical operations.

On the other hand, learned counsel for respondent No.3 has argued that adequate compensation has been awarded by the Tribunal and there is no further scope for enhancement of compensation.

I have heard learned counsel for the parties.

There is no dispute that on account of injuries suffered by the appellant, initially he was taken to General Hospital, Charkhi Dadri, but injuries being serious, he was referred to PGIMS, Rohtak, where he remained admitted from 14.01.2013 to 20.01.2013. Three different operations were conducted by the doctor. After considering such serious injuries, this Court finds that the amount of compensation awarded under the head of transportation, special diet, attendant charges, loss of income, pain and suffering needs to be enhanced. Therefore, this Court finds that the claimant is entitled to compensation of Rs.90,000/- under the head of transportation, special diet, attendant charges and loss of income instead of Rs.30,000/- awarded by the Tribunal. Similarly, the claimant is entitled to an amount of Rs.40,000/- under the head of pain and suffering instead of Rs.20,000/- awarded by the Tribunal as claimant had to undergo three surgeries.

Thus, the claimant is entitled to enhanced compensation of Rs.80,000/- over and above the amount awarded by the Tribunal. The claimant is also entitled to interest @ 7.5% per annum on the enhanced compensation from the date of filing of claim petition till its realisation.

Since the appeal has been filed after a delay of 529 days, the appellant shall not be entitled for any interest for this delayed period.

With this modification, the appeal is disposed of.

28.02.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No