

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6779 of 2016 (O&M)

Date of decision:29.10.2018.

Subhash

...Appellant

Versus

Parvez Masih and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ajit Sihag, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for respondent No.3/Insurance
Company.

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, Hisar ('Tribunal' for short) vide award dated 15.02.2016 on account of injuries and disability suffered by him in a motor vehicle accident on 15.08.2014.

Brief facts necessary for adjudication of the case are that a petition under Section 166 of Motor Vehicles Act 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 15.08.2014 when he was going from Village Uklana toward his Village Udaipur on his motorcycle bearing No.HR-32G-4280. When the appellant reached near Litani turn, the offending Alto Car bearing registration No.HR-20V-0304 being driven by respondent No.1 in a rash and negligent manner came from Hisar side and struck against his motorcycle. Appellant sustained multiple injuries on account of the said accident. Driver of the offending vehicle/respondent No.1 fled from the spot. FIR No.185 dated 17.08.2014 was registered under Sections 279 and 337 IPC at Police Station Uklana against respondent No.1. He was taken to Goyal Hospital, Barwala. MLR was

prepared. The appellant remained admitted in the hospital with diagnosis of fracture of both bones of leg, right side with injury, chest. He was operated upon on 16.08.2014 and discharged on 25.08.2014. The appellant suffered 10% permanent disability as reflected in the disability certificate (Ex.P12). It was pleaded that the claimant at the time of accident was a skilled auto mechanic of motorcycles and other vehicles, earning more than Rs.40,000/- per month. Compensation was, thus, prayed for.

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 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 assessed the permanent disability of the appellant as 10%. A sum of Rs.20,000/- was awarded for the permanent disability. Income of the appellant has been assessed by the learned Tribunal as Rs.6000/- per month. Loss of income for three months i.e. Rs.18000/- (6000x3) was awarded. A sum of Rs.47,144/- was awarded for medical expenses. Another sum of Rs.30,000/- was awarded towards pain and sufferings including hospitalization besides Rs.10,000/- for pain and sufferings of undergoing operation. Rs.4856/- was awarded towards transportation, special diet and miscellaneous expenses. Thus, total compensation of Rs.1,30,000/- was awarded to the claimant along with interest @ 7% per annum from the date of filing of the claim petition till realization. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant submits that meagre compensation has been afforded to the appellant towards loss of income.

Very less compensation has been afforded on account of pain and sufferings

as well as special diet, transportation. Nothing has been awarded on account of attendant charges. It is thus prayed that the compensation awarded by the learned Tribunal may be enhanced.

Learned counsel for the Insurance Company while refuting the abovesaid averments, prays for upholding the impugned award dated 15.02.2016, being justified in the facts and circumstances of the case.

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

It is not in dispute that appellant was involved in a motor vehicle accident which took place on 15.08.2014 due to the rash and negligent driving of the offending vehicle by its driver/respondent No.1. PW1 Dr. Navneet Goel stated that the claimant had fracture of both the bones of right leg with injury. Appellant was operated upon on 16.08.2014 and discharged on 25.08.2014. Medical bills Ex.P3 to P11 have been proved. Ex.P12, the disability certificate, reflects the appellant to have suffered permanent disability of 10% qua the limbs. The appellant claimed to be a motor mechanic, earning Rs.40,000/- per month. However, there is no evidence on record to substantiate this claim. In this situation, the learned Tribunal has rightly assessed the income of the injured as Rs.6000/-, as at the relevant time i.e. on 01.07.2014, the minimum wage of a skilled labourer was Rs.5677/-. The same is accordingly upheld. However, keeping in view the nature of the injury suffered, it is considered appropriate to award a sum of Rs.24000/- instead of Rs.18,000/- as loss of income, as it would not have been possible for the appellant to work for at least a period of 4 months. Amount of Rs.20,000/- awarded on account of permanent disability as well as Rs.47,144/- on account of medical expenses are upheld. Instead of Rs.30,000/- and Rs.10,000/- on account of pain and sufferings including hospitalization and for undergoing operation given separately by the learned

Tribunal, it is considered appropriate to award a sum of Rs.50,000/- for pain and sufferings. The appellant is held entitled to a sum of Rs.10,000/- each for special diet and attendant charges besides Rs.5000/- for transportation charges instead of the consolidated amount of Rs.4856/- for transportation, special diet and miscellaneous expenses.

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

Sr.No.	Heads of Claim	Rupee
1.	Medical expenses	Rs.47,144/-
2.	Loss of income (@ 6000 PM x4 months)	Rs.24,000/-
3.	Pain and sufferings	Rs.50,000/-
4.	Permanent disability @ 10%	Rs.20,000/-
5.	Transportation charges	Rs.5,000/-
6.	Special diet	Rs.10,000/-
7.	Attendant charges	Rs.10,000/-
Grand Total		1,66,144

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 entire compensation amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 15.02.2016, present appeal is disposed of.

(LISA GILL)
JUDGE

October 29, 2018
Ishwar Whether speaking/reasoned:- Yes/No
 Whether reportable:- Yes/No