

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

259

FAO-3024-2017 (O&M)
Date of decision: 27.04.2018

KRISHAN KUMAR

... Appellant

Versus

VIRENDER AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vivek Khatri, Advocate for the appellant.

Mr. Yashdeep Nain, Advocate for respondents No.1 and 2.

Mr. Punit Jain, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The injured victim is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Hisar whereby the claimant has been awarded Rs.1,06,400/-, detailed hereunder:-

1. Medical expenses	Rs.86,400/-
2. Pain and sufferings	Rs.15,000/-
4. Special diet	Rs.5000/-

Counsel for the claimant has prayed for enhancement of compensation primarily on the ground that the Tribunal has not awarded any compensation for loss of income during the period of treatment and recovery, attendant and transportation charges. However, it has been submitted that compensation awarded for pain and sufferings is on lower side. Another submission made by counsel is that though the Tribunal has decided issue No.9 against the insurance company but still in para 23 of the award, the insurance company has been held entitled to recover the amount of compensation from respondents No.1 and 2 therein after payment to the claimant.

Counsel representing the insurance company has not disputed that issue No.9 has been answered against the insurance company with the

finding that Virender respondent No.1 has not violated terms and conditions of policy.

As has been rightly argued by counsel for the claimant that the Tribunal has not awarded compensation under the aforesaid heads. The claimant suffered fracture right femur and right patella, as deposed by Dr. Anil Goyal PW1. He remained hospitalised for a period of seven days and operated upon on 06.11.2014. Taking into consideration the nature of injuries sustained, claimant would not have been able to perform his duties at least for a period of three months. Taking into account minimum wage of an unskilled labour available at the relevant time, the claimant is awarded an amount of Rs.16,800/- @ Rs.5600/- per month qua loss of income during the period of treatment and recovery.

The claimant is allowed an amount of Rs.5000/- for transportation and another Rs.5000/- for attendant charges.

The Tribunal has awarded an amount of Rs.15,000/- for pain and sufferings and there is no justification for enhancement of compensation under this head. Reimbursement of medical expenses and compensation for special diet allowed by the Tribunal is affirmed.

In this manner, claimant shall be entitled to additional amount of Rs.26,800/- with interest @ 7.5% per annum from the date of petition till realization.

The insurance company shall be jointly and severally liable to pay compensation without any right of recovery.

The appeal is partly allowed in the aforesaid terms.

**(REKHA MITTAL)
JUDGE**

27.04.2018
ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No