

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

**FAO No. 3994 of 2001 (O&M)
Date of Decision: 14.02.2019**

Faquir Chand

..... Appellant-claimant

VERSUS

Darbara Singh and others

..... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rishab Jain, Advocate,
for the appellant.

Mr. Vinod Gupta, Advocate,
for respondent No.3- New India Assurance Co. Ltd.

JAISHREE THAKUR, J.

1. This is an appeal that has been filed by Faquir Chand, claimant-appellant herein seeking to challenge the award dated 06.08.2001 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') whereby the Insurance Company along with the Driver and owner of the offending vehicle have been directed to pay compensation of ₹ 2,08,000/- to him.

2. In brief, the facts are that an accident took place on 22.12.1988 when Faquir Chand, an employee of M/s Krishan Alloys Pvt. Ltd. was going to his work on scooter bearing No. PB-11-L-

7840 being plied by Kuldip Singh, when they reached near village Gurdwara a jeep bearing No. PB-11-F-7131 being driven in a rash and negligent manner came from the opposite side and banged in the the scooter of which, Faquir Chand was a pillion rider. Both Faquir Chand and Kuldip Singh fell down and sustained injuries. The claimant Faquir Chand remained admitted in hospital and got treatment from private doctors. On account of the injuries sustained, he remained in hospital and a rod was inserted in his right leg. Thereafter, a claim petition under Section 166 of the Motor Vehicles Act, 1998 came to be filed seeking compensation for a sum of ₹ 5,00,000/-.

3. On notice, the driver and the owner of the jeep admitted the factum of the accident, whereas the New India Assurance Company stated that respondent No.1 was not holding a valid and effective driving license.

4. Issues were framed and evidence led, on the basis of the evidence available on the record, the Tribunal held the claimant-appellant herein entitled to compensation of ₹ 2,08,000/- which would be inclusive of loss of earning, medical treatment, pains and suffering etc. Aggrieved against the said award, the instant appeal has been filed.

5. Learned counsel appearing on behalf of the appellant herein contends that there has been permanent disability of 10% in his

right leg. On the other hand, learned counsel appearing on behalf of the respondent-Insurance Company would contend that the compensation which is inclusive of medical treatment, pains and suffering etc. is more than adequate. It is argued that appellant was employed with M/s Krishan Alloys Pvt. Ltd. and was earning ₹ 5,000/- per month. However, the disability that the appellant herein has suffered was not of such a nature that would not allow him to perform his duties. In this regard, learned counsel for the Insurance Company relies upon a judgment rendered by Hon'ble the Apex Court in ***Raj Kumar vs. Ajay Kumar and another, 2011 ACJ-1*** wherein the principles of assessment of compensation in an injury case have been enumerated. It is argued that all injuries do not result in loss of earning capacity.

6. I have heard learned counsel for the parties and have also perused the judgment relied upon by counsel appearing on behalf of the Insurance Company.

The compensation as allowed by the Tribunal is as under :-

- (i) Expenditure of operation and treatment : ₹ 40,000/-
- (ii) Loss of earning : ₹ 1,08,000/-
- (iii) Pain and suffering, loss of enjoyment of life, special dirt, transportation and expenditure on visitors etc. : ₹ 60,000/-

Total : ₹ 2,08,000/-

Whereas as per the dictum that has been stipulated in *Raj Kumar* case (supra), the calculation for compensation in the instant case would be as follows :-

- (a) Annual income before the accident : ₹ 60,000/-
- (b) Loss of future earnings per annum : ₹ 9,000/-
(15% of the prior annual income)
- (c) Multiplier applicable with reference : 17
to age (26-30)
- (d) Loss of future earnings
(₹ 9,000 x 17) : ₹ 1,53,000/-

The compensation, as such, would work out as under :-

- (i) Expenditure of operation and treatment : ₹ 40,000/-
- (ii) Loss of future earnings (9,000 x 17) : ₹ 1,53,000/-
- (iii) Pains and suffering, loss of enjoyment : ₹ 60,000/-
of life, special diet, transportation etc.

Total	: ₹ 2,53,000/-
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7. In view of the above, the appeal is allowed and consequently the compensation awarded is enhanced from ₹ 2,08,000/- to ₹ 2,53,000/-.

8. The Insurance Company is directed to release the enhanced compensation in favour of the claimant-appellant with interest @ 7.5% per annum from the date of the petition till realization.

9. Appeal is allowed in the aforesaid terms.

14.02.2019

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.