

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

**1. FAO No.5196 of 2004
Date of Decision : 12.03.2019**

Anil Kumar.Appellant

V/S

Chajju Singh alias Manjit Singh and ors.Respondents

2. FAO No.5197 Of 2004

Baby Gunjan Minor Daughter Of Sh. Ram Paul Jindal.Appellant

V/S

Chajju Singh alias Manjit Singh and ors.Respondents

3. FAO No.5198 Of 2004

Ram Paul Jindal.Appellant

V/S

Chajju Singh alias Manjit Singh and ors.Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

**Present: Mr. Kewal Singh, Legal Aid Counsel
for the appellant in all the appeals.**

**Mr. Vinod Gupta, Advocate and Mr. Neeraj Khanna, Advocate
for respondent No.3/*Insurance Company* in all the appeals.**

B.S. Walia, J. (Oral).

[1] This order shall decide FAO Nos.5196, 5197 and 5198 of 2004,
as the claim in all the three appeals arises out of the same accident, which took
place on 26.07.2003.

[2] FAO Nos.5196, 5197 & 5198 of 2004 have been filed, seeking
enhancement of compensation on account of injuries sustained by Anil

Kumar, Baby Gunjan, (student of 10+2) and for damages to motor cycle No. PB 11T 8844 belonging to Ram Pal Jindal.

[3] On the basis of evidence led before the learned Motor Accidents Claims Tribunal (Adhoc), Patiala (hereinafter referred to as 'the Tribunal'), ₹15,000/- was awarded to appellant-Anil Kumar i.e. ₹9,000/- on account of general damages, ₹4,000/- on account of medical expenses besides ₹2,000/- on account of loss of earning, while Baby Gunjan was awarded ₹10,000/- i.e. ₹6,000/- on account of general damages, ₹3,000/- as medical expenses and loss of earning ₹1,000/-, whereas ₹6,000/- was awarded on account of damages to motor cycle No.PB 11T 8844.

[4] Learned Legal Aid Counsel for the appellant(s) contended that the compensation awarded was liable to be enhanced, as appellant-Anil Kumar had sustained head injuries and remained admitted in Amar Hospital, Patiala, for a period of 31 days, while Baby Gunjan remained admitted in hospital for a period of 17 days. Besides the appellant had spent a sum of ₹6,000/- on repair of motor cycle which was fully damaged.

[5] The learned Tribunal, Patiala, took into account that no disability certificate had been produced on record nor was there any evidence with regard to any operation done *qua* the injuries allegedly suffered by appellant-Anil Kumar and it was only that the injured received conservative treatment in the hospital for 31 days and 17 days, respectively. Duration of admission and the treatment to appellant-Anil Kumar and Baby Gunjan stands corroborated on the basis of medical record and evidence of PW-3 Dr. Arun Bansal, Attending Neuro Surgeon of Amar Hospital, Patiala. Varinder Krishan Kapilash, Surveyor proved loss to the motor cycle and assessed the same at

147(2)(b) of the Motor Vehicle Act, as per which the liability *qua* damage to third party property is limited to maximum of ₹6,000/-.

[6] Learned counsel for the appellant(s) has not been able to make out a case for payment of enhanced compensation except for contending that the compensation awarded on account of hospitalization for a period of 31 days & 17 days respectively at ₹15,000/- and ₹10,000/- was inadequate. No doubt, the appellant-Anil Kumar and Baby Gunjan remained admitted in hospital for a period of 31 days & 17 days respectively. Appellant-Anil Kumar is stated to have received head injuries for which he received conservative treatment, while admitted in Amar Hospital, Patiala for a period of 31 days, while Baby Gunjan remained admitted in hospital for a period of 17 days. Since, it is an accident of the year 2003 and it is a burnt case, record is not available. However, the appellants are entitled to some enhancement of compensation. Though, learned counsel for the appellant(s) contended that minimum of ₹50,000/- be awarded to each of the appellants, yet in the absence of any factor other than admission for a period of 31 days and 17 days, respectively in hospital, learned counsel for the respondent-*Insurance Company* offers to make payment of a sum of ₹30,000/- and ₹20,000/-, respectively to appellant-Anil Kumar and Baby Gunjan in total as against the compensation of ₹15,000/- and ₹10,000/- respectively, awarded by the learned Tribunal, Patiala along with interest.

[7] In the circumstances, I am of the view that the offer on behalf of the respondent-Insurance Company is just and fair. Accordingly, as against compensation of ₹15,000/- and ₹10,000/-, respectively awarded to Anil Kumar and Baby Gunjan, the compensation payable is enhanced to ₹30,000/-

with interest @ 7.5% per annum with effect from the date of claim petition, till date of payment, less payment if any, already made.

[8] FAO No.5198 of 2004, seeking enhancement on account of damage to the property of a third party is bereft of merit in view of Section 147(2)(b), which restricts payment of compensation in respect of damage to property of a third party @ ₹6,000/-. Accordingly, in the light of the position as noted above, FAO Nos.5196 & 5197 of 2004 are **allowed** to the extent as noted above and award dated 09.08.2004, passed by the learned Tribunal, Patiala, is accordingly **modified** to the extent as noted above, while FAO No.5198 of 2004 is **dismissed**.

(B.S. WALIA)
JUDGE

March 12, 2019
'Rajneesh'

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No