

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

FAO No.1674 of 2007 (O&M)

Date of Decision.09.12.2019

Phool Chand

...Appellant

Vs

Yogender Singh @ Jogender Singh and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellant.

Mr. Ashwani Talwar, Advocate
for the insurance company.

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JAISHREE THAKUR J. (ORAL)

1. This is an appeal that has been filed seeking to challenge the award of the Motor Accident Claims Tribunal, Kaithal whereby compensation has been assessed at ₹57,000/- on account of injuries suffered by the appellant-claimant in the accident that took place on 25.05.2004.

2. Admitted facts that can be culled out are that Phool Chand was a passenger in a vehicle described as Tata 407 bearing registration No.HR10-9272, which struck into a truck bearing registration No.HR68A-8877, which was parked on the road without any indicator or parking lights on. On account of accident, Phool Chand suffered fracture of both bones of left leg, left arm, left clavicle bone and various other injuries on his person and remained hospitalized from 26.05.2004 to 09.06.2004. He suffered a disability of 7%, which is likely to improve with the passage of time and physiotherapy. In this regard, an FIR bearing No.60 under Sections 283, 304-A IPC was also registered.

3. The claim petition was contested by the driver and owner of the offending vehicle as well as by the insurance company. Evidence was led by the parties and ultimately, a finding was returned that death was caused on account of wrong parking of the offending vehicle. The Tribunal while assessing the total compensation of ₹57,000/- provided ₹25000/- for medical expenses, ₹20,000/- for pain and suffering and special diet, ₹7000/- for disability and ₹5000/- for loss of income. Aggrieved against the inadequate compensation, the instant appeal has been filed.

4. Learned counsel appearing on behalf of the appellant submits that the Tribunal has assessed a consolidated sum of ₹20,000/- towards pain and suffering and special diet whereas they should have been assessed separately. No amount has been provided towards transportation and attendant charges, much less, the components of disability and loss of income have also been assessed on lower side, thus, prays for enhancement of compensation.

5. Per contra, learned counsel appearing on behalf of the insurance company submits that all the heads of claim have been assessed adequately and there is no scope for enhancement.

6. I have heard learned counsel for the parties and have perused the paper book. I am of the view that the compensation is required to be enhanced. The amount of ₹25,000/- provided towards medical expenses is retained, however, a sum of ₹10,000/- is provided for pain and suffering. For special diet, attendant charges and transportation, a sum of ₹20,000/- is allowed and for disability of 7%, another sum of ₹14000/- is added. As regards loss of income, the appellant is stated to be engaged in agriculture

and dairy farming work, therefore, a sum of ₹15,000/- is provided towards loss of income for the period he remained in hospital and till the time he was not able to perform his agriculture work. In all, the compensation payable shall be ₹84,000/-. The amount in excess over what has already been awarded by the Tribunal shall also attract interest @7.5% per annum from the date of filing of claim petition till its realization. The liability shall remain the same as has been determined by the Tribunal.

7. The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(JAISHREE THAKUR)
JUDGE

December 09, 2019

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No