

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

FAO-183-2008 (O&M)

Date of decision: 20.12.2019

Vijay Kumar

... Appellant

Versus

Prem Lal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. R.D.Bawa, Advocate,
for the appellant(s).

Mr. Pradeep Goyal, Advocate,
for respondent No.3-Insurance Company.

KARAMJIT SINGH, J.

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 05.09.2007, on account of injuries received by him in a motor vehicular accident, which took place on 15.06.2005.

Brief facts of the case are that on 15.06.2005, claimant-appellant (Vijay Kumar) was going from village Nayagaon, Tehsil Kharar, District Ropar, on his scooter bearing registration No.CH-3-H/7868 to village Dehra Gopipur, Himachal Pradesh. His friend Ashwani Kumar was following him on a separate motorcycle. When, he reached near village Bharatpur Kevata Chowk, a truck bearing registration No.HP-11-3853 being driven by respondent No.1-Prem Lal in a rash and negligent manner, came and struck against his scooter, as a result of which, claimant-appellant

fell down on the road and sustained multiple injuries on his body and head. He was taken to the PGI, Chandigarh, by his friend Ashwani Kumar, where he remained admitted upto 19.06.2005. Thereafter, he was advised treatment as out door patient. During his admission in the PGI, stitches were applied on his right leg and arm. With regard to the above-said accident, FIR No.137 dated 17.06.2005, under Sections 279, 337 and 427 of the Indian Penal Code (for short, 'IPC') was registered at Police Station Sadar, Ropar against the driver, i.e., respondent No.1. Consequently, the claimant-appellant filed a claim petition before the Tribunal against the driver, owner (respondent No.2) and insurer (respondent No.3) of the offending vehicle.

On the basis of the pleadings of the parties, following issues were framed by the Tribunal : -

1. Whether the claimant suffered injuries/disability in the Motor Vehicle accident caused by respondent No.1-Prem Lal by driving truck No.HP-11-3853 rashly and negligently? OPP
2. If issue No.1 is proved, whether the claimant is entitled to any compensation? If so, to what extend and from which of the respondent? OPP.
3. Whether respondent No.1 was not holding a valid and effective driving licence on the date of the accident? If so, its effect? OPR-3.
4. Relief.

The appellant-claimant himself appeared in the witness box as PW1 and he proved record relating to his treatment Ex.P1 to Ex.P13 which also includes medical bills. PW2 Ashwani Kumar also corroborated the

tendered in evidence. Insurance company tendered in evidence insurance policy Ex.R1. Respondents No.1 and 2 had not led any evidence. The Tribunal allowed the claim petition and granted compensation worth ₹ 30,000/- along with interest thereon @ 6% per annum from the date of institution till the date of payment as detailed below. The liability of all the respondents was held to be joint as well as several.

Sr. No.	Heads	Amount (Rs.)
1	Actual medical expenses	Rs.14,327.05
2	Compensation for loss of wages	Rs.6,000.00
3	Compensation for pain and suffering and loss of enjoyment of life.	Rs.5,000.00
4	Compensation for Special diet and transportation.	Rs.4,700.00
	Total	Rs.30,027.05 Round off Rs.30,000/-

Aggrieved by the said award, the present appeal has been filed by the appellant-claimant.

The factum of the accident has not been denied by the respondents. So, there is no dispute with regard to the fact that the appellant-claimant suffered injuries in the motor vehicle accident which was caused by respondent No.1-Prem Lal while driving truck No.HP-11-3853 in rash and negligent manner on 15.6.2005. There is also no dispute regarding the fact that at the time of the aforesaid accident, respondent No.1 was holding a valid and effective driving licence.

The claimant has challenged the findings of the Tribunal regarding issue No.2 on the ground that the amount of compensation awarded by the Tribunal is not reasonable. The compensation on account of pain and sufferings and loss of enjoyment of life and special diet prescribed

by the doctor is not adequate. It is further contended that no compensation on account of attendant charges was given to the claimant-appellant, who remained admitted in the hospital and due to the same, he also suffered financial loss. It is further argued that the claimant-appellant failed to attend his duty in the office till 30.9.2005 due to the injuries sustained by him in the aforesaid accident. Accordingly, the impugned award deserves to be enhanced.

On the other hand, counsel for the insurance company while supporting the award, contended that reasonable compensation has been granted to the claimant-appellant and this appeal deserves to be dismissed.

I have considered the submissions made by the counsel for the parties with regard to quantum of compensation.

The medical bills which were produced on the record by the claimant-appellant were worth ₹ 14,327/-. The said actual medical expenses are covered in the impugned award.

As per Ex.P1, immediately after the accident, the claimant-appellant was taken to PGIMER, Chandigarh where he remained admitted from 16.6.2005 to 19.6.2005 and he complained of loss of memory. The claimant-appellant again visited the said hospital on 11.8.2005 for follow up treatment as is evident from Ex.P2. So, it is evident that the claimant-appellant remained admitted in PGIMER, Chandigarh for 3 days for his treatment and even thereafter, he visited the said hospital for follow up treatment. In these circumstances, this Court is of the view that the claimant-appellant is entitled to get compensation worth ₹ 15,000/- for pain and sufferings and loss of enjoyment of life on account of the injuries

suffered internal head injury due to the accident in question, as a result of which, he was feeling partial loss of memory, so the doctor may have prescribed him special diet. On that account, the Tribunal awarded amount of ₹ 4700/- which is proper and sufficient. The claimant-appellant is entitled to get another amount of ₹ 3000/- as transportation charges as he remained visiting the hospital even after his discharge, for follow up treatment.

During the arguments, the counsel for the insurance company admitted that the claimant-appellant was working in some Government Undertaking and he retired from there in 2019 on attaining the age of superannuation. There is nothing on the record to show that the claimant-appellant suffered any permanent or temporary disability. The salary record of the claimant-appellant was not produced to establish that his monthly income was ₹ 9429/- as has been claimed by him in the claim petition. In these circumstances, the Tribunal rightly assessed his monthly income as ₹ 6000/- by making guess work. It is the case of the claimant-appellant that he sustained head injury, as a result of which he suffered partial memory loss and as such, failed to join his duties till 30.9.2005. It means that he failed to do any work for a period of about 3 months and as such, he suffered financial loss of ₹ 18,000/-. This Court is also of the view that apart from this, the claimant-appellant is also entitled to get ₹ 6,000/- as attendant charges, as during the above said period of recuperation, he may have engaged someone to attend him. So, the total amount of compensation in this case comes out to be ₹ 61,027/- and accordingly, the claimant-appellant is entitled to ₹ 31,027/- (₹ 61,027 – ₹ 30,000 already awarded) more as

petition till its realization.

The appeal stands allowed accordingly.

(KARAMJIT SINGH)
JUDGE

December 20, 2019

Paritosh Kumar

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