

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1916 of 2007 (O&M)

Date of decision : 19.9.2019

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Balbir Singh

.....Appellant

vs.

Rajender Singh @ Rajender Kumar and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Hardeep Singh Saini, Advocate for
Mr. Varun Katyal, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for respondent No.3-
Insurance company.

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H. S. Madaan, J. (Oral)

Balbir Singh son of Jang Singh, resident of Jind, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, against respondents i.e. Rajender Singh @ Rajender Kumar – driver, Krishan Kumar - owner, as well as The United India Insurance Company Limited, Jind – insurer of Jeep No. HR-31-A-4700 (hereinafter referred to as 'the offending vehicle'), claiming compensation on account of injuries suffered by him in the motor vehicular accident, which took place on 29.4.2004, in the area near old Sabji Mandi, Jind, on account of rash and negligent driving of

Jeep No. HR-31-A-4700 by respondent No.1 Rajender Singh @ Rajender Kumar.

In the said accident, he had suffered multiple injuries including fracture in his left leg. He was aged about 50 years and used to earn Rs.5,500/- per month being self employed as a Mason. FIR No. 364 with regard to the said accident was lodged with Police Station City Jind, for offences under Sections 279, 337, 427 IPC against Rajender Singh @ Rajender Kumar. Claimant remained admitted in General Hospital Jind from 29.9.2004 to 6.10.2004 and then from 6.10.2004 to 18.10.2004 in General Hospital, Jakhal. He was operated upon for fracture of left leg and plates were inserted. After being discharged from the hospital, he had continued taking treatment. He has suffered permanent disability to the extent of 15% and cannot perform his work as a Mason.

On being put to notice all the three respondents had appeared and offered a contest. After trial, Motor Accident Claims Tribunal, Jind, vide award dated 22.12.2006, accepted the petition and awarded compensation of Rs.77,000/- to the claimant payable by all the three respondents, jointly and severally alongwith interest @ 7.5% per annum from the date of filing of claim petition till realization. Details of the compensation awarded are as follows :-

1. Medical expenses	Rs. 5,000/-
2. Transport expenses	Rs. 2,000/-
3. Special diet expenses	Rs. 1,000/-
4. Attendant expenses	Rs. 1,000/-
5. Loss of income during medical	Rs.18,000/-

treatment.

6. Loss of future income on Rs.25,000/-

account of permanent disability.

7. Non-pecuniary damages Rs.25,000/-

i.e. for undergoing physical pain,

mental agony etc.

Total

Rs.77,000/-

The claimant felt dissatisfied with the amount of compensation awarded to him by the Tribunal and has approached this Court by way of filing the present appeal.

Notice of the appeal was given to the respondents. However, only respondent No.3- Insurance company has put in appearance.

I have heard learned counsel for the parties, besides going through the record.

The Tribunal has awarded medical expenses to the tune of Rs.5,000/- only. However, keeping in view the nature of injuries suffered by the claimant including fracture in his left leg, for which surgery was performed and plates were inserted, merely because the claimant could not produce all the bills and receipts for medical treatment, a meager sum of Rs.5,000/- has been awarded and no amount has been given towards future medical expenses, as such the said amount is enhanced to Rs.25,000/- for medical expenses, including expenses for follow up treatment.

As regards transport expenses awarded as Rs.2,000/- and special diet and attended expenses Rs.1,000/- each, those are also on

very low side and are enhanced to Rs.10,000/- each.

With regard to loss of income during the period claimant received treatment, a sum of Rs.18,000/- has been awarded, which also calls for some enhancement and the same is enhanced to Rs.25,000/-.

With 15% of permanent disability, the claimant would not be able to work as Mason with same efficiency as he could do so, prior to suffering injuries. A sum of Rs.25,000/- awarded to him by the Tribunal on account of loss of future income towards permanent disability, is somewhat on the lower side and the same is enhanced to Rs.50,000/-.

The claimant has been awarded a sum of Rs.25,000/- towards non-pecuniary damages i.e. for undergoing physical pain, mental agony etc. Though it is not specifically mentioned that the compensation for loss of amenities etc. is covered by that but the claimant is to be compensated in that regard also and further for loss of amenities and expenses on account of non-pecuniary damages the amount is enhanced to Rs.50,000/-.

Thus the claimant is held entitled to a total compensation of Rs.1,80,000/- as per detail given below:-

1. Medical expenses	Rs. 25,000/-
2. Transport expenses	Rs. 10,000/-
3. Special diet expenses	Rs. 10,000/-
4. Attendant expenses	Rs. 10,000/-
5. Loss of income during medical treatment.	Rs. 25,000/-

6. Loss of future income on account of permanent disability.	Rs.50,000/-
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7. Non-pecuniary damages i.e. for undergoing physical pain, mental agony etc.	Rs.50,000/-
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Total	<u>Rs.1,80,000/-</u>
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The claimant has been awarded a compensation of Rs.77,000/- only. In this way, the claimant shall be entitled to additional compensation of Rs. 1,03,000/- (Rs.1,80,000 – Rs.77,000) with interest @ 7.5% per annum from the date of filing of appeal till actual realization. The liability of all the three respondents to pay this amount shall be joint and several. The amount of enhanced compensation be deposited by the Insurance company in the bank account of the claimant and he would be entitled to withdraw the same without there being any rider, as has been imposed by the Tribunal in the original award.

The appeal is allowed partly, with costs.

19.9.2019
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(**H.S. Madaan**)
Judge

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