

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

FAO-6317-2011 (O&M)

Date of decision: 12.03.2019

Yogender Singh

...Appellant

Versus

Surender and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Aditya Yadav, Advocate for
Mr. S.N. Yadav, Advocate
for the appellant.

Mr. Sandeep Suri, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

On account of suffering injuries in a motor vehicular accident, which took place on 24.08.2008 at about 2 P.M., near Village Lalawas crossing, statedly due to rash and negligent driving of maruti car No.HR-18A-5054 by respondent No.1-Surender, the victim Yogender Singh filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, impleading Surender-driver, Sandeep-owner and National Insurance Company Ltd., New Delhi-insurer of maruti car in question as respondents. After contest, the claim petition was allowed by Motor Accidents Claims Tribunal, Rewari, vide award dated 02.02.2011 and total compensation of Rs.2,64,803/- was awarded to the claimant as per details below:-

1.	Compensation on account of permanent partial disablement to the extent of 46%	Rs.1,20,000
2.	Pain & Suffering	Rs.46,000
3.	Medical expenses	Rs.78,803
4.	Transportation Charges	Rs.5000
5.	Special Diet/Attendant Charges	Rs.5000
6.	Loss of income	Rs.10,000
	Total	Rs.2,64,803

Feeling dissatisfied with the amount of compensation awarded to him, the claimant has approached this Court, by way of filing an appeal, notice of which was given to the respondents. Only insurance company had put in appearance through counsel and is contesting the appeal.

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

Learned counsel for the appellant has contended that the claimant had suffered permanent disability to the extent of 46%, however, the tribunal had awarded compensation of Rs.1,20,000/- only on that account, whereas in view of ratio of the authority Yadava Kumar Vs. The Divisional Manager, National Insurance Co. Ltd. & Another, 2010(10) SCC 341, the compensation is worked out to Rs.3,97,440/-, if the minimum wages prevalent in the State of Haryana at the relevant time are taken to be Rs.4000/- per month.

Learned counsel for the Insurance Company has submitted that the amount awarded under the head is adequate.

I find that the disability in this case is partial. PW-5-Dr. A.K. Saini, Medical Officer, Government Hospital, Rewari, who was member of the Medical Board, which had examined the claimant/injured on 20.10.2010 to determine his disability, had assessed it at 46% on account of restricted movements of right knee with partial loss of stability with shortening and pain and issued disability certificate Ex.PW5/A. In his cross examination, he has admitted it to be correct that the disability pertains to right lower limb only though stating that it would affect the whole body. He has further admitted it as correct that a little improvement in disability with passage of time and physiotherapy cannot be ruled out. It being so, I find that the compensation awarded on that account is just and adequate.

The claimant has been awarded a sum of Rs.46,000/- towards pain and suffering. No interference therewith is called for and it is kept as such.

Towards medical expenses, the tribunal has awarded a sum of Rs.78,803/-. Keeping in view the fact that in normal course, it is not possible to keep record of every bill or receipt for purchase of medicines and other ancillary articles required for the treatment and the claimant may be required to spend more money in future also, for which, no amount has been awarded. In my considered view, the amount under the head needs to be enhanced to Rs.1 lac and it is ordered accordingly.

Under the head of transportation charges, a sum of Rs.5000/- has been awarded. Keeping in view the period of hospitalization and the fact that the claimant must have gone to the doctor for follow-up

treatment also, spending a suitable amount, this amount seems to be on lower side and is enhanced to Rs.10,000/-.

Under the head special diet and attendant charges, a consolidated sum of Rs.5000/- has been awarded. However, considering the fact that the claimant had suffered fracture in his leg, for treatment of such type of injury, special diet is required to be taken. The amount awarded, that too consolidated with attendant charges, is found to be inadequate. A sum of Rs.10,000/- is awarded to the claimant under the head special diet. Considering the fact that during the period of his hospitalization and thereafter also, while going to doctor for follow-up treatment, he would have required assistance of an attendant, so also while at home in movement there, a sum of Rs.10,000/- deserves to be awarded to the claimant and it is awarded accordingly.

Under the head loss of income, the tribunal has awarded a sum of Rs.10,000/-. Keeping in view the fact that the claimant was aged about 24 years at the time of accident, keeping in view the nature of injury, the period of hospitalization and the treatment taken by him, the amount granted under the head seems to be on lower side and it is enhanced to Rs.25,000/-.

The tribunal has not taken notice of the fact that the claimant was not be able to walk, run and perform the natural work which he used to do earlier after suffering the injury. Therefore, a sum of Rs.25,000/- is awarded to him on that account, under the head loss of amenities.

In that way, the total compensation comes out to Rs.3,46,000/- and accordingly, the claimant is entitled to get an additional

compensation of Rs.81197/- (Rs.3,46,000 – 2,64,803/-). The claimant shall be entitled to get this additional amount along with interest @ 7.5 p.a., from the date of filing of appeal till actual realization along with costs of the petition.

In that way, the appeal is allowed partly.

12.03.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No