

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

F.A.O. No. 4556 of 2012

DATE OF DECISION :- September 11, 2019

Tara Chand

...Appellant

Versus

Vishnu and others

...Respondents

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

Present:- Mr. S.P. Chahar, Advocate for the appellant.

Mr. Deepak Girotra, Advocate
for Mr. Dinesh Arora, Advocate for respondent No. 2.

Ms. Manjeet Kaur, Advocate
for Mr. Chander Shekhar, Advocate
for respondents No. 4 and 5.

Mr. Subhash Goyal, Advocate for respondents No. 3 and 6.

On 17.4.2008 at about 7. P.M., Tara Chand aged about 25 years met with an accident and suffered injuries statedly on account of rash and negligent driving of Truck bearing Registration No. HR-46-B-8838 by respondent No. 4 Satbir Singh. The matter was reported to the police. Formal F.I.R. No. 253 dated 17.4.2008 for offences under Sections 279, 304-A IPC was registered against respondent No. 4 Satbir-driver of Truck bearing Registration No. HR-46-B-8838 and respondent No. 1 Vishnu-driver of Jeep/Temp Trax Cruiser bearing registration No. HR-62-0469 in which appellant was travelling. Tara Chand had suffered multiple injuries in

the accident and he got treatment from PGI, Rohtak. He had filed a claim petition under Section 166 of the Motor Vehicle Act against the respondents i.e. Vishnu-driver, Samunder-owner, Reliance General Insurance Co. Ltd, Rohtak-Insurance Company of Jeep/Temp Trax Cruiser bearing registration No. HR-62-0469 as well as Satbir Singh-driver, Ashish Kumar-owner and Reliance General Insurance Co. Ltd, Rohtak-Insurance Company of Truck bearing Registration No. HR-46-B-8838.

On getting notice, only respondents No. 3 and 6 had put in appearance whereas remaining respondents did not appear despite service and were proceeded against ex-parte. The appearing respondents filed written statements contesting the claim petition. Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence.

After hearing, Motor Accident Claim Tribunal, Rohtak vide Award dated 13.9.2011 accepted the claim petition and awarded compensation of Rs.4,78,800/- as per details below :-

Medical Expenses	Rs.10,000/-
Pain and Suffering	Rs.10,000/-
Loss of Income and Permanent disability	Rs.4,40,800/-
Special Diet	Rs.5000/-
Transportation and Attendant Charges.	Rs.5,000/-

Interest at the rate of 6% per annum was awarded on this amount. It was directed that respondent No. 3 would pay 50% of the amount of compensation but would have right to recover the same from respondent Nos. 1 and 2 and the remaining 50% amount would be payable by respondent Nos. 4 to 6 jointly and severally.

Feeling dissatisfied with the amount of compensation awarded by Motor Accident Claims Tribunal, Rohtak, the claimant has approached this Court by way of filing an appeal, notice of which was given to the respondents.

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

I find that the compensation awarded by the Tribunal is somewhat on the lower side. The Tribunal has awarded medical expenses of Rs.10,000/-. Keeping in view the nature of injuries, period of hospitalization and the fact that it is not possible to retain all the bills/cash memos for the money spent on purchasing medicines etc. and some of the bills/receipts/cash memos may get lost or misplaced and further the Tribunal has not granted any compensation for future treatment, the amount awarded under that Head is enhanced to Rs.20,000/-. As regards the compensation awarded towards under the head pain and suffering, to the tune of Rs.10,000/-, that is inadequate and calls for increase. The same is enhanced to Rs.30,000/-. The amount of Rs.4,40,800/- awarded towards loss of income and permanent disability is adequate and is kept as such, whereas with regard to special diet, the amount of Rs.5,000/- awarded is meagre one. The same is enhanced to Rs.25,000/-. Considerable amount gets spent on transportation while going from home to hospital and back. Therefore, the amount of Rs.15,000/- needs to be awarded to the claimant on that account whereas another sum of Rs.20,000/- is awarded to him on account of attendant's charges. The Tribunal had awarded a sum of Rs.5,000/- only under the Head transportation and attendant charges. As a result of suffering

injuries, the claimant would not be able to walk, run and otherwise perform the acts which he could do earlier. Therefore, a sum of Rs.20,000/- is awarded to him towards loss of amenities and another sum of Rs.20,000/- under Head loss of expectation of life. In that way additional compensation of Rs.1,50,000/- is awarded to the claimant payable by the respondents in the manner indicated by the Tribunal in the award. The claimant shall be entitled to get interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of filing of the appeal till actual realization besides cost of the appeal. The other terms and condition shall remain the same as given by the Tribunal in the Award.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

September 11, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No