

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO-5732-2012 (O&M)

Date of Decision: October 01, 2019

Resham Singh

.....Appellant

VERSUS

Bharpur Singh and others

.....Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. R.S.Sidhu, Advocate for
the appellant.

Mr. Vinod Gupta, Advocate
for the Insurance Company.

JAISHREE THAKUR, J.(Oral)

1. This is a first appeal that has been filed by the appellant seeking to challenge the award dated 16.09.2011 passed by the MACT, Tarn Taran seeking enhancement of compensation on account of the injuries sustained by him in the motor vehicle accident which took place on 06.12.2007.

2. In brief, the facts of the case are that on 06.12.2007 at about 11.25 a.m., the claimant- Resham Singh along with his friend Sakandar Singh were going Tarn Taran for his work on motorcycle bearing registration No.PB-02-AB-7646. When they crossed village Sanghe, a tanker bearing registration No.MH-43E-2306 coming from the opposite side, driven by respondent No.2 in a rash and negligent manner struck against the motor cycle of the claimant and as a result of which, the claimant

sustained injuries. On account of multiple injuries suffered by him, the claimant filed a claim petition.

3. Upon notice, the respondents appeared and contested the claim petition. The driver as well as owner of the offending vehicle denied the taking place of any accident and prayed for dismissal of the claim. The claim was contested by the Insurance Company as well, stating that the claim petition is not maintainable as the claimant did not sustain injuries as alleged and further that the driver of the offending vehicle did not hold any valid and legal driving license at the time of the alleged accident and prayed that the claim petition be dismissed as no such alleged accident took place.

On appreciation of the evidence, the Tribunal awarded compensation for a sum of ₹3,19,225/- to the claimant- Resham Singh by allowing him a sum of ₹10,000/- for transportation and ₹10,000/- towards pain and sufferings and special diet and his disability was assessed at 20% permanent in nature.

4. Aggrieved against the inadequate compensation, the instant appeal has been filed.

5. Per contra, learned counsel appearing on behalf of the respondent submit that adequate amount of compensation has been awarded by the Tribunal and no interference is called for.

6. In a judgment rendered in **Raj Kumar Vs. Ajay Kumar and others 2011 (1) SCC 343**, a formula has been prescribed for assessing compensation to be paid to a claimant who has suffered injuries resulting permanent disability, wherein it has been held that he has to be awarded compensation under the following heads namely:-

“F. Motor Vehicles Act, 1998, Sections 147, 166 and 173- Injury to a person in Motor accident- He is to be awarded compensation under following heads:- Pecuniary damages (Special Damages)

- (i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.*
- (ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :*
 - (a) Loss of earning during the period of treatment;*
 - (b) Loss of future earnings on account of permanent disability.*
- (iii) Future medical expenses.*
- Non-pecuniary damages (General Damages)*
- (iv) Damages for pain, suffering and trauma as a consequence of the injuries.*
- (v) Loss of amenities (and/or loss of prospects of marriage).*
- (vi) Loss of expectation of life (shortening of normal longevity)”*

7. There is no dispute about the factum of accident which took place on 06.12.2007 in which the appellant herein was severely injured. The award of the Tribunal qua the accident having taken place has attained finality since the same has not been challenged either by the owner-driver or by the Insurance Company. Therefore, the only question that remains to be determined is whether adequate compensation has been allowed or not.

8. In the opinion of the Court, apart from the attendant charges and special diet @ ₹5000/- each, the compensation towards pain and suffering is also insufficient. The compensation payable to the claimant is thus re-assessed as under:-

Sr. No.	Heads of claim	Amount
1	Compensation on account of loss of earning	₹10,000/-
2	Loss of income due to permanent disability	₹1,15,200/-

Sr. No.	Heads of claim	Amount
3	Compensation towards attendant charges	₹5000/-
4	Compensation towards transportation	₹10,000/-
5	Compensation for nutritious diet	₹5000/-
6	Medical expenses and hospital charges	₹ 1,84,025/-
7	Pain and suffering	₹ 30000/-
8	Total	₹ 3,49,225/-

10. Consequently, the appeal is allowed. The appellant-Resham Singh shall be entitled to enhanced compensation of ₹349225/-, the amount in excess over and above what was awarded by the Tribunal will also attract interest @7.5% per annum from the date of the appeal till the date of payment.

October 01, 2019

(JAISHREE THAKUR)
JUDGE

seema

Whether speaking/reasoned
Whether reportable

Yes.
No.