

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

FAO-2862-2013(O&M)

Date of decision:-23.7.2019

Vijender (Bijender) Kumar Sharma

...Appellant

Versus

Jog Raj and others

...Respondents

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

Present: Mr.Ashok Giri, Advocate
for the appellant.

Mr.Akash Yadav, Advocate for
Mr.Abhinav Gupta, Advocate
for respondent No.3.

H.S. MADAAN, J.

Petitioner/claimant Virender (Bijender) Kumar Sharma had brought a claim petition under Section 166 of the Motor Vehicles Act against the respondents i.e. Jog Raj – driver, Mangat Ram – owner and Reliance General Insurance Company Ltd., Chandigarh – insurer of Tata truck bearing registration No.HP12D-3333 (hereinafter referred to as the offending vehicle), claiming compensation to the tune of Rs.10 lakhs along with interest, on account of suffering injuries in a motor vehicular accident. The petition was filed before Motor Accidents Claims Tribunal, Rup Nagar (hereinafter referred to as the Tribunal).

As per the version of the petitioner/claimant on 9.7.2011 at

about 2:00 p.m., he along with his brother Naresh Kumar was going on his motorcycle bearing registration No.PH-12L-6833 driven by him on which Naresh Kumar was the pillion rider; that they were going to Mata Naina Devi Shrine; that the motorcycle was being driven on left hand side of the road at normal speed; that when they had reached near village Dhadi, P.S. Kiratpur Sahib, then the offending vehicle being driven by respondent No.1 – Jog Raj was going ahead; that the claimant blew horn of his motorcycle in order to overtake the truck; that respondent No.1 – Jog Raj driving the truck signalled the claimant to overtake it; that when the claimant was in the process of overtaking the truck, then respondent No.1 – Jog Raj abruptly turned his truck towards right hand side in a rash and negligent manner, resultantly right side of the truck struck against the motorcycle; that the claimant fell down on the pucca portion of the road and received multiple, serious and grievous injuries on his head and other parts of the body; that his hip joint also got fractured; that he was removed to Civil Hospital, Anandpur Sahib from where he was referred to PGI, Chandigarh; that he remained hospitalized for a long time in PGI, Chandigarh and incurred an amount of Rs.1 lakh on his treatment; that as a result of suffering injuries in the accident, he has become permanent disabled and is unable to do work as a normal human being in routine; that his married life has also been ruined; that he had suffered mentally, physically and financially; that he was running a business of fast-food on rickshaw, earning Rs.15,000/- monthly.

Notice of the claim petition was given to respondents, who put in appearance through counsel. Respondents No.1 and 2 filed a joint

written statement raising various legal objections, on merits contending that no such accident had taken place with the vehicle driven by respondent No.1. They prayed for dismissal of the claim petition.

In the written statement filed by respondent No.3 – insurance company, it also took up various legal objections further contending that driver of truck was not holding a valid and effective licence at the time of alleged accident; furthermore the terms and conditions of the insurance policy were violated; that the driver of the truck was under the influence of liquor at the time of accident, therefore, insurance company is not liable to pay any compensation on behalf of the insured; that as a matter of fact the claim petition had been filed by claimant in collusion with respondents No.1 and 2. Such respondent also craved for dismissal of the claim petition.

Issues on merits were framed. Parties were afforded adequate opportunities to lead evidence.

After contest, the Tribunal while allowing the petition partly vide award dated 8.3.2013, awarded compensation of Rs.1,10,207/- along with interest @ 6% per annum from the date of filing of the petition till realization payable by respondents No.1 to 3 jointly and severally.

Feeling that the compensation awarded to him was on lower side, the claimant has filed the present appeal seeking enhancement of compensation, notice of which was given to respondent No.3 – insurance company, which had put in appearance through counsel.

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

In light of the bills, cash memos and other documents brought on file by the claimant, the Tribunal has awarded a sum of Rs.50,207/- to him as medical expenses. However, it is a matter of common knowledge that many a times, the record of various amounts spent on purchase of medicines in the form of bills, receipts, cash memos etc. is not kept inadvertently or some of the bills/receipts etc. get lost or misplaced. Considering that fact, the compensation under that head is enhanced to **Rs.60,000/-**.

With such type of injuries suffered by the injured, claimant would be requiring further treatment and some arrangement for the same deserves to be made. I award a sum of **Rs.25,000/-** under that head.

The compensation granted to the claimant as transportation expenses is to the extent of Rs.20,000/- only, which in my view is on somewhat lower side. With injured having remained hospitalized for a considerable time and undergoing various tests and keeping in account the visits for follow-up treatment, the amount needs to be enhanced to **Rs.25,000/-** and it is ordered accordingly.

No amount has been awarded under the head special diet. As regards special diet, a person suffering injuries does need special diet for early and proper recovery. I award a sum of **Rs.25,000/-** under that head.

Similarly, the amount of Rs.15,000/- awarded towards loss of earning is on lower side, which is enhanced to **Rs.30,000/-**.

The amount of **Rs.25,000/-** awarded under the head pain and sufferings is just and proper.

No amount has been awarded to the claimant on account of

attendant charges. The claimant having suffered injuries did require help of an attendant during the period of his hospitalization and then going to hospital for follow up treatment. A sum of **Rs.30,000/-** is accordingly awarded to the appellant/claimant on that score.

No amount has been awarded to the claimant on account of loss of amenities and loss of expectation of life. The claimant on account of injuries suffered by him would not be able to walk, run or sit as he was prior to the accident. A sum of Rs.20,000/- each (total **Rs.40,000/-**) is awarded to him under those heads.

Thus, the total compensation comes out to Rs.2,60,000/-.

The Tribunal has awarded compensation of Rs.1,10,207/- along with interest @ 6% per annum from the date of filing of the petition till realization payable by respondents No.1 to 3 jointly and severally. The same is enhanced to Rs.2,60,000/-.

The claimant would be entitled to get interest @ 7.5% per annum from the date of filing of the claim petition till actual realization of the amount of Rs.2,60,000/-, payable by all the respondents jointly and severally. The other terms and conditions given in the award shall apply to the enhanced amount as well.

With such modification, the appeal is allowed partly with costs.

23.7.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No