

FAO No. 109 of 2015 (O&M)

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

FAO No. 109 of 2015 (O&M)

Date of Decision: November 29, 2019

Rajesh Sharma

..... Appellants(s)

Versus

Itwari and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjay Dhiman, Advocate
for the appellant.

Mrs. Shamsher Kaur, Advocate
for respondent no.3-insurance company.

LISA GILL, J.(oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimant vide award dated 24.04.2014, passed by learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') on account of the injuries suffered by him in the motor vehicle accident, which took place on 10.01.2013.

The appellant-claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the injuries suffered by him in the motor vehicle accident, which took place on 10.01.2013, due to the rash and negligent driving of the offending car bearing registration No. DL-1C-G-3445, by its driver Itwari-respondent no.1.

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Learned Tribunal concluded that the accident in question took place due to the rash and negligent driving of the offending vehicle, by its driver Itwari-respondent no.1 and the claimant received injuries/fracture in the accident in question. Learned Tribunal awarded a sum of Rs.1,45,000/- i.e. Rs.1,29,000/- on account of medical expenses and a consolidated sum of Rs.11,000/- on account of pain & suffering, special diet, transportation and loss of amenities of life besides a sum of Rs.5,000/- on account of damage to the motorcycle of the appellant-claimant. Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant submits that meagre compensation has been awarded by the learned Tribunal, which should be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

I have heard learned counsel for the appellant and have gone through the file.

There is no dispute regarding the appellant having suffered injuries in the motor vehicle accident, which took place on 10.01.2013, due to the rash and negligent driving of the offending car bearing registration No. DL-1C-G-3445, by its driver Itwari-respondent no.1. The claimant-appellant is admittedly a Teacher employed at Government School, Morni. It is a matter of record that after the accident, the appellant was taken to

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Barwala Dental College, Barwala on 10.01.2013 from where he was referred to PGI, Chandigarh but instead he was taken to Fortis Hospital, Mohali, where he remained admitted w.e.f. 10.01.2013 to 21.01.2013. He was operated upon for the head injury and some other injuries, which he had suffered in the accident. As per the discharge summary from Fortis Hospital, Mohali, the appellant suffered a fracture of the left temporo-parietal bone with overlying scalp haematoma/swelling. There is no evidence on record to indicate that any kind of permanent disability or functional disability was suffered by the appellant due to the accident in question. He admittedly continued with his job. Compensation towards the medical expenses has been rightly awarded as per the bills proved on record. However, the appellant is entitled to a sum of Rs.50,000/- towards pain and suffering. Instead of a consolidated sum of Rs.11,000/- awarded by the learned Tribunal towards pain & suffering, special diet etc., a sum of Rs.8,000/- each towards special diet and attendant charges and a sum of Rs.5,000/- towards transportation expenses is afforded to the appellant. Compensation towards medical expenses and damages to the motorcycle as awarded by the learned Tribunal is maintained.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Medical expenses	1,29,000/-
2.	Special diet	8,000/-
3.	Attendant charges	8,000/-
4.	Transportation charges	5,000/-

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5.	Damages to motorcycle	5000/-
6.	Pain and sufferings	50,000/-
	Total	Rs.2,05,000/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization. However, in view of the order dated 05.04.2018 passed by the co-ordinate Bench, the appellant shall not be entitled for the interest w.e.f. 09.10.2017 till 04.10.2018.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

November 29, 2019.
Sunil

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