

215

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

**FAO No.4217 of 2013 (O&M)
Date of Decision: 06.02.2019**

Ganga Parsad

Appellant

Versus

Krishan Lal and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajesh Gupta, Advocate
for the appellant.

Mr. Aayush Gupta, Advocate
for respondents No.1 and 2.

Mr. Ashwani Talwar, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

The award dated 20.10.2012 passed by the Motor Accident Claims Tribunal, Ludhiana [for brevity 'the Tribunal'] has been assailed by the claimant for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. New India Assurance company Ltd.) of truck bearing registration No. PB-10BG-9965 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts in brief are that a motor vehicular accident took place on 23.12.2006. The claimant sustained injuries in the said accident and filed a claim petition under Section 166 of the Act seeking compensation.

The Tribunal after considering the facts and appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation.

The claimant produced a Disability Certificate showing 10% disability. The said Certificate was not proved by deposition of any Doctor, the said Disability Certificate was not accepted by the Tribunal. The Tribunal awarded compensation of ₹1,40,751/- alongwith interest @ 7.5% per annum.

Learned counsel for the appellant contends that the appellant was hospitalized for 22 days and thus the amounts awarded under the conventional heads and for special diet are on the lower side. Further that the loss of income has been awarded only for 22 days i.e. the period of hospitalization and post hospitalization period was not considered.

Learned counsel for the insurer while defending the award contends that even the nature of injuries sustained was not proved by the claimant.

Keeping in view the facts and circumstances of the case, especially considering there was hospitalization for 22 days, albeit, the claimant failed to substantiate the permanent disability, the

amount awarded by the Tribunal is enhanced by ₹20,000/- to cover up the heads of loss of income, attendant charges, conveyance and special diet, which would have been required by the claimant for the period of hospitalization and subsequent to it.

It is clarified that while enhancing the compensation by ₹20,000/-, interest to be awarded under Section 171 of the Act has been taken into consideration.

Learned counsel for the insurer fairly states that the said amount would be paid to the claimant within six weeks from the date of furnishing RTGS details by the claimant alongwith certified copy of this order.

Disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

February 06, 2019
pankaj baweja

- | | | |
|------------------------------|---|-----------------|
| 1. Whether speaking/reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |