

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

FAO No. 2086 of 2015 (O&M)

Date of decision : April 29, 2019

Jaffar Singh

.....Appellant

Versus

Avtar Singh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Verma, Advocate
for the appellant.

Mr. Sanjeev Kodan, Advocate
for respondent No. 2.

LISA GILL, J.

This appeal has been preferred by the appellant – Jaffar for enhancement of compensation awarded to him vide award dated 01.10.2014 passed by the learned Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'Tribunal') on account of injuries suffered by him in the motor vehicle accident, which took place on 09.05.2012 due to rash and negligent driving of the offending vehicle Canter bearing registration No. PB-10BT/3844 driven by its driver Kashmir Singh. Finding of the learned tribunal on this issue has attained finality.

Learned Tribunal while taking note of the fact that the appellant suffered a fracture of his right ankle awarded a sum of ₹21,300/-, which is detailed as under:-

Medical expenses	: ₹8,300/-
Pain and suffering	: ₹5,000/-
Special diet	: ₹3,000/-
Attendant charges	: ₹3,000/-
Transportation charges	: ₹2,000

Learned counsel for the appellant vehemently argues that

meagre compensation has been afforded by the learned Tribunal which should be enhanced. The appellant is entitled not only to loss of income for the period he was incapacitated to work but also to future loss of income. The appellant, it is stated, was working as a labourer at the time of the accident. It is thus prayed that this appeal be allowed and compensation awarded to the appellant be enhanced.

Learned counsel for the respondent - insurance company has, however, opposed any kind of enhancement. It is submitted that the compensation has been rightly assessed, thus, the impugned award dated 01.10.2014 be upheld.

I have heard learned counsel for the parties and have gone through the file with their able assistance.

There is no dispute regarding the appellant having suffered injuries as mentioned in the motor vehicle accident caused by the rash and negligent driving of the offending Canter bearing registration No. PB-10BT/3844 driven by its driver Kashmir Singh on 09.05.2012. After the accident, the appellant was taken to General Hospital, Ambala City and thereafter referred to PGI, Chandigarh. He remained admitted at Government Medical College and Hospital, Chandigarh till 01.06.2012.

PW1 Dr. Jagdeep Singh, Government Medical College and Hospital, Sector 32, Chandigarh testified that the appellant was admitted at the said hospital on 09.05.2012 with alleged history of a road side accident. The claimant suffered a fracture of the right ankle (open grade -III). He was duly treated and discharged on 01.06.2012. Discharge slip as well as the bills for investigations and medicines were duly proved by PW1. PW5 Dr. Alaknanda Malik, Deputy Civil Surgeon, Ambala has proved the medico

legal report (Ex.P83) of the appellant. Learned counsel for the appellant is

unable to deny that the appellant has not suffered any permanent disability on account of the injuries suffered by him in this accident. There is no such evidence on record. Keeping in view the facts and circumstances of the case, medical expenses, as awarded by the learned Tribunal on the basis of the bills etc. duly proved on record, are maintained. However, keeping in view the nature of the injuries suffered and the factum of the appellant being a labourer, it is inevitable that he would have suffered loss of income for the period he remained totally incapacitated to work. Minimum wages in the State of Haryana at the time of the accident were ₹4857/- per month. Income of the appellant is, thus, assessed as ₹5000/- per month. In all normal probabilities, the appellant would not have been able to get back to his normal vocation for atleast a period of three months after discharge from the hospital. Therefore, he is entitled to loss of income for four months. Thus, loss of income of the appellant for four months is assessed as ₹20,000/- (₹5,000 x 4). The claimant is entitled to a sum of ₹10,000/- instead of ₹5,000/- for pain and suffering. The appellant is also entitled to a sum of ₹5,000/- each for special diet, attendant charges and transportation charges [instead of ₹3,000/- for special diet, attendant charges and ₹2,000/- for transportation charges].

Appellant is, thus, entitled to compensation detailed as under:-

Loss of income for three months (5,000 x 4)	₹20,000/-
Medical expenses	₹8,300/-
Pain and suffering	₹10,000/-
Special diet	₹5,000/-
Attendant charges	₹5,000/-
Transportation charges	₹5,000/-
Total	₹53,300

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as 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 petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

April 29, 2019
rts

(Lisa Gill)
Judge

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