

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

F.A.O. No.2040 of 2016(O&M)

Date of Decision: 25.03.2019

Dharam Pal

.....Appellant.

Versus

Dilbagh Singh and another

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vipul Sharma, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent no2-Insurance Company.

LISA GILL, J.

Appellant-claimant, seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala (for short 'tribunal'), vide impugned award dated 26.11.2015, on account of the injuries received by him in a motor vehicle accident.

Appellant filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the injuries, which he received in an accident which took place on 21.01.2014 due to the rash and negligent driving of the offending vehicle i.e. Chevrolet Beat car bearing registration no. HR-01-AF-1277, by its driver-respondent no.1-Dilbagh Singh. FIR, Ex.P-23, was registered against respondent no.1-Dilbagh Singh, in this respect.

Learned Tribunal on considering the facts and circumstances of the case concluded that the accident in question indeed occurred due to rash and negligent driving of the offending vehicle by respondent no.1-Dilbagh

Singh. Said finding of the learned tribunal has attained finality.

Learned tribunal in MACP No. 315 of 2014 (claiming compensation on account of injuries received by appellant-Dharam Pal) awarded a sum of ₹76,026/- along with interest @ 9 % per annum from the date of filing of the claim petition till realisation of the amount to the claimant which is detailed as hereunder:-

Sr. No.	Heads of Claim	Amount
1.	Medical expenses and hospitalization charges	₹36,026/-
2.	Permanent disability	₹10,000/-
3.	Special diet	₹5000/-
4.	Loss of income	₹10,000/-
5.	Attendant charges	₹5000/-
6.	Pain and suffering	₹10,000/-
	Grand Total	₹76,026/-

Learned counsel for the appellant submits that compensation of ₹76,026/- awarded to the claimant-Dharam Pal, on account of the injuries received by him is woefully insufficient and prays that the same be enhanced.

Learned counsel for the respondent-Insurance Company, while refuting the same, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any further enhancement. Learned counsel prays for dismissal of the appeal.

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

Appellant-claimant was about 60 years old at the time of the accident and is claimed to be running the business of sale and purchase of

animals. Admittedly, the appellant remained admitted at C.Lal, Hospital, Ambala Cantt from 21.01.2014 till 26.01.2014. Both legs of the appellant were fractured and he received injuries on other parts of his body as well. He was operated upon and treated in the said hospital. Learned counsel for the appellant is unable to deny that there is no evidence on record to indicate any functional disability suffered by the appellant.

Needless to say, in such a situation, appellant could not have been able to get back to work for at-least three months. There is no evidence on record to prove the occupation or income of the claimant. However, it is noticed that minimum wage of even an unskilled labourer in the State of Haryana was ₹5447/- at the time of accident. He is thus entitled to a sum of ₹16341/- (5447/- x 3) instead of ₹10,000/- on account of loss of income. Appellant is also entitled to a sum of ₹ 25,000/- on account of pain and suffering instead of ₹10,000/-. Compensation awarded on account of attendant charges and special diet by the learned tribunal, is maintained. Compensation awarded on account of medical expenses, hospitalisation charges and permanent disability by the learned tribunal, is also maintained.

Claimant-Dharam Pal, on account of the injuries received by him is entitled to compensation which is re-worked as under:-

Sr. No.	Heads of Claim	Amount
1.	Loss of earnings	₹16,341/-
2.	Pain and suffering	₹25,000/-
3.	Attendant charges	₹5000/-
4.	Special diet	₹5000/-
5.	Medical expenses	₹36,026/-
6.	Permanent disability	₹10,000/-
	Grand Total	₹97,367/-

Claimant shall be entitled to interest on the enhanced amount at the rate of 7.5 % per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimant shall stand deducted.

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

25.03.2019
s.khan

[LISA GILL]
Judge

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