

FAO No. 5645 of 2013 (O&M)

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

FAO No. 5645 of 2013 (O&M)

Date of Decision: March 25, 2019

Sandeep

..... Appellants(s)

Versus

Vikas and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rahul Deswal, Advocate
for the appellant.

Service upon respondents no.1 & 2 already dispensed with
vide order dated 20.03.2017.

Mr. M.B. Jain, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (Oral)

This appeal has been filed seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 30.07.2013 to the appellant on account of injuries suffered by him in the motor vehicle accident.

Appellant-claimant in the petition filed under Section 166 of the Motor Vehicle Act, 1988 pleaded that he sustained injuries in a motor vehicle accident, which took place on 08.03.2012, due to the rash and negligent driving of the offending car bearing registration No. HR-26-BH-

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5733, by its driver Vikas-respondent no.1. Appellant it is stated suffered severe head injuries and he was operated upon as well, at Medicity Hospital, Gurgaon. Compensation was thus prayed for.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver Vikas-respondent no.1. Finding of the learned Tribunal on this issue has attained finality. Tribunal awarded a sum of Rs.7,25,762/-, the detail of which is as under:-

1.	Pain and sufferings	50,000/-
2.	Loss of current income for six months	51,000/-
3.	Medical expenses	6,09,762/-
4.	Transportation charges	5,000/-
5.	Special diet	10,000/-
	Total	7,25,762/-

Present appeal has been filed seeking enhancement of the compensation awarded.

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

It is a matter of record that the appellant was admitted at Medicity Hospital, Gurgaon on 08.03.2012 and discharged on 19.04.2012. He was thereafter admitted again at the same hospital on 21.04.2012 and discharged on 30.04.2012. Dr. S.K. Garg (PW-8) from Medicity Hospital, Gurgaon proved the medical treatment of the appellant as well as the

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expenses incurred. PW-8 verified that the appellant was operated upon and brain surgery was conducted. The claimant-appellant remained admitted in the hospital for 50 days. Follow-up treatment was also advised. However, PW-8 has not stated that due to the head injury sustained by the appellant, he suffered any kind of functional disability or that his mental faculties were affected or that he was unable to perform his daily routine chores. There is indeed no evidence on record to show that the claimant-appellant suffered any kind of functional disability due to the head injury.

Learned Tribunal has specifically observed that the claimant testified as PW-4 and there is nothing to suggest that he was not of sound mind. Claimant has examined PW-7 Kamal Narula, Proprietor of A.K. System, to prove that the claimant was working as a Computer Engineer with said firm, drawing a salary of Rs.8,500/- per month. There is again no evidence on record to suggest that the claimant was forced to leave his job because of the said injury.

Admittedly, there is no permanent disability suffered by the appellant on account of the said head injury. There is no such disability certificate on record and neither any such argument has been raised by the learned counsel for the appellant at the time of hearing. However, it is the matter of record that the appellant suffered diffused axonal injury with intra ventricular hemorrhage. He remained admitted in Medicity Hospital, Gurgaon for 50 days. Therefore, he is entitled to a sum of Rs.75,000/- instead of Rs.50,000/- awarded by the learned Tribunal on account of pain and sufferings. Appellant is also entitled to a sum of Rs.15,000/- each on

account of attendant charges and special diet (instead of Rs.10,000/- awarded by the learned Tribunal on account of special diet). Compensation awarded in respect to the transportation charges, medical expenses and loss of income is maintained.

The appellant is thus entitled compensation as detailed hereunder:-

Srl. No.	Heads	Amount
1.	Pain and sufferings	75,000/-
2.	Loss of current income for six months	51,000/-
3.	Medical expenses	6,09,762/-
4.	Transportation charges	5,000/-
5.	Special diet	15,000/-
6.	Attendant charges	15,000/-
	Total	7,70,762/-

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 on the entire amount at the rate of 7.5% per annum from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

March 25, 2019

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No