

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

FAO No. 5076 of 2014 (O&M)

Date of decision : December 17, 2019

Ravi Chopra

.....Appellant

Versus

Sh. Vikrant Taneja @ Vipin and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjeev Roy, Advocate for
Mr. I.P.S. Doabia, Advocate
for the appellant.

Mr. Kartar Singh, Advocate
for respondent No. 2.

Mr. Pradeep Kumar, Advocate
for respondent No. 3.

LISA GILL, J.

This appeal has been preferred by the appellant – Ravi Chopra for enhancement of compensation awarded to him vide award dated 01.02.2014 passed by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'Tribunal') on account of injuries suffered by him in the motor vehicle accident, which took place on 02.11.2011.

Appellant – claimant, aged 70 years, filed a claim petition under Section 166 of Motor Vehicles Act seeking compensation on account of the injuries and disability suffered by him in a motor vehicle accident which took place on 02.11.2011.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to rash and negligent driving of the offending vehicle Maruti Gypsy bearing registration

No. HR-38Q7865 by its driver – respondent No. 1. This finding of the learned Tribunal has attained finality. The learned Tribunal afforded compensation to the appellant which is detailed as hereunder:-

1.	Pain and suffering	₹25,000/-
2.	Medical expenses	₹11,52,553/-
3.	Special diet and Transportation	₹10,000/-
4.	Attendant	₹5,000/-
5.	Loss of Income	₹12,000/-
	Total	₹12,04,553/-

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

Learned counsel for the appellant argues that the claimant though fortunately did not suffer any permanent disability but underwent extreme trauma on account of serious injuries and subsequent surgeries undergone by him. It is, thus, prayed that compensation awarded to the appellant be enhanced.

Learned counsel for the respondents while refuting the arguments raised by learned counsel for the appellant submit that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 01.02.2014 be upheld.

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

It is proved on record that the appellant suffered multiple injuries in the accident, which took place on 02.11.2011 due to rash and negligent driving of the offending vehicle Maruti Gypsy bearing registration No. HR-38Q7865 by its driver – respondent No. 1. Finding that the accident took place due to the rash and negligent driving of offending vehicle Maruti

Gypsy bearing registration No. HR-38Q7865 by its driver – respondent No.1 has attained finality. PW2 Dr. Yuvraj Kumar, Asian Hospital, Faridabad has stated that the claimant was diagnosed with 'haemoperitrium with multiple mesenteric tear with segmental commuted fracture right femur shaft and fracture supra condylar left femur'. It is a matter of record that the claimant was operated upon four times and he remained admitted in the hospital from 02.11.2011 to 10.11.2011, 09.01.2012 to 10.01.2012, 16.04.2012 to 17.04.2012 and 11.03.2013 to 13.03.2013. The details of the surgeries done form part of the record. The discharge summaries have been proved on record by PW2. The expense incurred by the claimant is proved by PW3 Gagandeep, Record Keeper, Fortis Hospital, Faridabad. PW3 also proved expenses incurred by the claimant. Though the claimant fortunately did not suffer any permanent disability, he did undergo a traumatic experience and underwent as many as four surgeries at the age of 70. In the given facts and circumstances, it is considered just and expedient to award a sum of ₹1,00,000/- instead of ₹25,000/- towards pain and suffering. The appellant is also entitled to a sum of ₹20,000/- each towards special diet and transportation instead of consolidated sum of ₹10,000/-. A sum of ₹40,000/- (instead of ₹5000/-) is awarded towards attendant charges. Learned counsel for the appellant is unable to point out any ground whatsoever to enhance the sum of ₹12,000/- awarded towards loss of income. A sum of ₹11,52,553/- on account of medical expenses has been awarded as per the details produced on record and the same is maintained.

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

Pain and suffering	₹1,00,000/-
Medical expenses	₹11,52,553/-
Special diet	₹20,000/-
Attendant charges	₹40,000/-
Transportation	₹20,000/-
Loss of income	₹12,000/-
Total	₹13,44,553/-

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.

December 17, 2019

rts

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

(Lisa Gill)
Judge