

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O. No.4597 of 2015(O&M)

Date of Decision: 21.05.2019

Balbir Singh

.....Appellant.

Versus

Mohd. Naqi and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.A.K.Ranolia, Advocate
for Mr. Shiv Kumar, Advocate
for the appellant.

Mr Pradeep Kumar, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J.

Appellant-claimant seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad, vide impugned award dated 19.01.2015, on account of injuries received by him in the motor vehicle accident which took place on 21.12.2013.

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 21.12.2013 due to the rash and negligent driving of the offending vehicle i.e., three-wheeler bearing registration No. HR-38-S-5633, by its driver-respondent no.1-Mohd. Naqi. FIR No. 427 dated 21.12.2013, under Sections 279 and 337 IPC, Police Station Old Faridabad, was registered against respondent no.1-Mohd. Naqi, 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-Mohd. Naqi. Said finding of the learned tribunal has attained finality.

Learned tribunal awarded a sum of ₹2,75,000/- along with interest @ 7.5 % per annum from the date of filing of the claim petition till realisation of the amount to the claimant. Recovery rights were afforded to the respondent-Insurance Company. Details of the compensation awarded by the learned tribunal is as hereunder:-

Sr. No.	Heads of Claim	Amount
1.	Costs of medicines vide bills Ex.P-5 to Ex.P-21 and Ex.P-23 to Ex.P-28	₹2,45,000/-
2.	Pain and suffering, special diet	₹10,000/-
3.	Transportation	₹5000/-
4.	Loss of income	₹15,000/-
	Total	₹2,75,000/-

Learned counsel for the appellant vehemently argues that the appellant was working as a private draftsman earning a sum of ₹25,000/- per month. Therefore, meagre compensation has been awarded by the learned tribunal. It is thus prayed that the present appeal be allowed and the compensation awarded to the appellant-claimant 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 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.

There is no dispute regarding the injuries suffered by the appellant in the motor vehicle accident which took place on 21.12.2013 due to the rash and negligent driving of the offending vehicle by respondent no.-1-Mohd. Naqi.

As per the evidence on record, the appellant suffered a head injury in the said accident as well as some other injuries on his person. PW-1-Dr. Sanjeev Kumar, from Metro Heart Institute, Faridabad, proved the summoned record as well as the discharge summary, Ex.P-1. He deposed that appellant was admitted in the hospital on 21.12.2013 and discharged on 30.12.2013. It is proved that the appellant suffered head injury (left fronto-temporal subdural haematoma) and 'fracture on lateral wall of right orbit and greater wing of right sphenoid bone with small haemorrhagic contusions in left temporal lob with mass effect'.

Learned counsel for the appellant is unable to deny that the appellant did not suffer any permanent disability due to the injuries received by him in the accident in question. The appellant, while deposing as PW-4 has admitted that no disability certificate was issued to him. It is not borne out from the record that the appellant suffered any kind of permanent disability or handicap due to the injuries suffered by him in the accident in question.

Learned counsel for the appellant has argued that the appellant was working as a private draftsman earning a sum of ₹25,000/- per month. However, admittedly, there is no such evidence on record. The appellant is mentioned to be 58 years old in the claim petition. Again, there is no evidence on record regarding his age. In the medical record, he is mentioned

to be 60 years old. Learned tribunal has accepted age of the appellant to be 59 years. It is to be noted that in the year 2013, minimum wage of an unskilled labourer in the State of Haryana was about ₹5341/-. His income has been rightly assessed as ₹6000/- per month by the learned tribunal.

However, keeping in view the nature of injuries, the appellant is entitled to loss of income for a period of four months instead of 2 ½ months i.e. ₹24,000/- (₹6000 x 4). Compensation on account of the medical expenses awarded by the learned tribunal on the basis of bills i.e., ₹2,45,000/-, is maintained.

Instead of a consolidated amount of ₹10,000/- towards pain and suffering as well as special diet, appellant is entitled to a sum of ₹50,000/- for pain and suffering and ₹10,000/- for special diet. Appellant is further entitled to a sum of ₹5000/- for attendant charges. ₹5000/- awarded by the learned tribunal towards transportation, is maintained.

Compensation towards the claimant-Balbir Singh on account of the injuries and disability suffered by him is thus re-worked as under:-

Sr. No.	Heads of Claim	Amount
1.	Medical expenses	₹2,45,000/-
2.	Pain and suffering	₹50,000/-
3.	Loss of income for a period of four months	₹24,000/- (6000 x 4)
4.	Special diet	₹10,000/-
5.	Attendant charges	₹5000/-
6.	Transportation charges	₹5000/-
	Grand Total	₹3,39,000/-

Amount already awarded by the Tribunal to claimant-Balbir Singh 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.

21.05.2019
s.khan

[LISA GILL]
Judge

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