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

**FAO No.6209 of 2015
Date of Decision: 25.03.2019**

Bhagat Singh

Appellant

Versus

Kallu and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rishav Jain, Advocate
for the appellant.

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

AVNEESH JHINGAN, J (Oral):

The award dated 08.01.2015 passed by the Motor Accident Claims Tribunal, Palwal [for brevity 'the Tribunal'] has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. H.D.F.C. Ergo General Insurance Company Ltd.) of Bus bearing registration No. HR-73-5227 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts emanating from the record are that on

30.07.2013, Bhagat Singh (appellant) was returning home from I.S. Memorial Public School, Hodal in the offending vehicle. While he was stepping down from the offending vehicle, the driver suddenly started the offending vehicle, as a result, he was run over by the offending vehicle. He was immediately shifted to Sheetal Hospital, Palwal and later referred to Delhi but he was taken to Asian Hospital, Faridabad. FIR No.126, dated 03.08.2013 was registered on the statement of Dharamvir.

In the claim petition, it was pleaded that the claimant was 17 years old at the time of accident and was student of 10+1. In the claim proceedings, it was proved that an amount of ₹10,70,449/- was spent on treatment. The appellant remained admitted in hospital for more than two months. The Tribunal awarded a sum of ₹10,95,449/- alongwith interest @ 7% per annum. The amount awarded included ₹5,000/- each for transportation, attendant charges, special diet, pain & suffering and enjoyment of amenities of life. The insurer of the offending vehicle was held liable to pay the compensation.

Learned counsel for the appellant contends that compensation awarded under various pecuniary and non-pecuniary heads is on the lower side as only ₹5,000/- has been awarded under each head.

Learned counsel for the insurer argues that there was no permanent or temporary disability. He resisted any further enhancement.

From the perusal of the record, it is evident that the appellant remained hospitalized for more than two months. The doctor was not examined to prove the nature of injuries and type of treatment given to the appellant. The amount of medical bills was duly reimbursed by the Tribunal.

In absence of any temporary or permanent disability and without establishing the nature of injuries and type of treatment, it would be difficult to enhance the compensation under various pecuniary and non-pecuniary heads. It is the duty cast upon the Courts to arrive at just and equitable compensation and the only restriction is that it should not be a windfall for the claimant.

Considering the medical expenses and period of hospitalization, and for the reason that transportation, attendant and special diet would have been required during the period of hospitalization and may be thereafter also, amounts awarded by the Tribunal are enhanced as under :

Particulars	Amount awarded by the Tribunal. (in ₹)	Amount enhanced by this Court (in ₹)
Medical Expenses	10,70,449/-	10,70,449/-
Transportation	5,000/-	10,000/-
Attendant Charges	5,000/-	10,000/-
Special Diet	5,000/-	10,000/-
Pain & Suffering	5,000/-	15,000/-
Enjoyment of amenities of life	5,000/-	15,000/-
Total enhanced amount :		11,30,449/-

The award dated 08.01.2015 is modified to the extent that amounts of ₹10,95,449/- awarded by the Tribunal under various pecuniary and non-pecuniary heads are enhanced to ₹11,30,449/-.

The claimant shall be entitled to the enhanced amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

March 25, 2019

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |