

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 8481 of 2014

Date of Decision: December 17 , 2019.

Pokar Singh APPELLANT (s)

Versus

Ram Niwas and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Amit Chaudhary, Advocate
for the appellant.

Mr. Ajay K.Dahiya, Advocate
for respondent No2.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance company.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to him by the learned Motor Accident Claims Tribunal, Fatehabad (for short, the 'Tribunal') vide impugned award dated 14.01.2014 on account of the injuries suffered by him in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, a petition under Section 166 of Motor Vehicles Act (for short, the 'Act') was preferred by the appellant seeking compensation on account of the injuries suffered by him in a motor vehicle accident, which took place on 20.10.2012 due to the rash and negligent driving of Innova car bearing registration No.HR-22F-8900, by its

driver-respondent No.1-Ram Niwas. FIR No.429 dated 22.10.2012 under Sections 279/337/338 IPC was registered at Police Station Sadar Fatehabad in respect to the incident. It is pleaded that the appellant remained hospitalized in the Medical College and Hospital, Agroha. He then was referred to General Hospital, Hisar and thereafter, the appellant is stated to have taken treatment from Sapra Hospital. Compensation to the tune of ₹15,00,000/- was thus prayed for.

Learned Tribunal on consideration of the evidence on record, concluded that the claimant suffered injuries on his head and spine on account of the accident in question, which took place due to the rash and negligent driving of the offending vehicle No.HR-22F-8900 by respondent No.1, and awarded a total compensation of ₹79,798/-. A consolidated sum of ₹10,000/- was awarded on account of pain and suffering as well as special diet. ₹54,798/- was afforded on account of the medical expenses, besides, ₹15,000/- towards loss of income for three months.

Aggrieved from the quantum of compensation, the present appeal has been filed.

Learned counsel for the appellant submits that meagre compensation has been afforded to the appellant. Treatment of the claimant, it is submitted, is still continuing, therefore, chances of permanent disability cannot be ruled out. It is further stated that the appellant is an agriculturist, besides, selling milk. Therefore, adequate compensation should be afforded. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondents No.2 and 3, however, refute the abovesaid averments and submits that the compensation awarded by the learned

Tribunal is just and reasonable. Dismissal of the appeal is sought.

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

Liability of the respondents in this case is not in dispute, neither is there a dispute regarding injuries caused to the claimant/appellant in the motor vehicle accident which occurred on 20.10.2012 due to the rash and negligent driving of the offending vehicle car No.HR-22F-8900 by respondent No.1 – Ram Niwas. A perusal of the record reveals that the claimant/appellant suffered a head injury including fracture of temporal bone as well as spinal injury. PW2 Dr. Tarun Sapra has testified in this regard and has also proved the expenses incurred by the appellant on his medical treatment. It is a matter of record that the appellant was treated conservatively for the head injury. Learned counsel for the appellant is unable to deny that there is no evidence on record to prove that the claimant/appellant suffered any permanent disability. No evidence has been produced on record to indicate that the claimant is still under treatment.

However, learned Tribunal has erred in awarding a consolidated sum of ₹10,000/- towards special diet as well as pain and suffering. Keeping in view the nature of injuries, the appellant is entitled to a sum of ₹75,000/- towards pain and suffering. A sum of ₹10,000/- each towards special diet and attendant charges, besides, ₹5,000/- towards transportation is afforded. Keeping in view the nature of injuries, it can reasonably be presumed that the appellant could not have resumed his normal activities for at least a period of six months. The appellant is, thus, held entitled for a sum of ₹30,000/- (5,000 x 6) for loss of income for six months, instead of three months as awarded by the learned

Tribunal. ₹54,798/- awarded by the learned Tribunal on account of medical and hospital expenses is maintained.

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of income for six months	₹30,000 (5,000x6)
2.	Pain and sufferings	₹75,000
3.	Attendant charges	₹10,000
4.	Special diet	₹10,000
5.	Transportation	₹5,000
6.	Medical expenses	₹54,798
Grand Total		₹1,84,798/-

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.
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(LISA GILL)
JUDGE

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