

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

**FAO No.618 of 2016
Date of Decision: 13.02.2019**

Jagwant Singh

Appellant

Versus

Sardara Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Upender Prasher, Advocate
for the appellant.

Mr. Dilraj Singh, Advocate for
Mr. Amit Arora, Advocate
for respondents No.1 to 3.

Mr. Manohar K. Garg, Advocate
for respondent No.4-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 09.09.2015 passed by the Motor Accident Claims Tribunal, Tarn Taran [for brevity 'the Tribunal'] has been assailed in the appeal by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

Brief facts of the case are that a motor vehicular accident took place on 17.02.2012. The appellant was travelling in an auto-rickshaw bearing registration No. PB-02AK-9625. On his

way, the said auto-rickshaw was hit by a tractor bearing registration No. PB-46J-0179 [hereinafter referred to as 'offending vehicle']. As a result of the impact, appellant sustained grievous injuries. He remained admitted in Arora Hospital from 17.02.2012 to 26.02.2012. FIR No. 27, dated 21.02.2012 was registered at Police Station Jhabal, District Tarn Taran.

A claim petition was filed under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation. The Tribunal awarded a sum of ₹4,14,866/-.

The only dispute raised in the present appeal is that medical bills amounting To ₹1,82,544/- were produced before the Tribunal. Dr. Rakesh Arora from Arora Hospital, Amritsar deposed to prove those medical bills. The Tribunal recorded the finding that these have not been disputed by the respondents yet while calculating the compensation, the said amount has not been considered.

Learned counsel for the respondents though defends the award but could not raise any serious dispute with regard to the findings recorded by the Tribunal in para 17 of the award. For ready reference, para 17 of the award is reproduced as under:

“17. The claimant has examined Dr. Rakesh Arora from Arora Hospital, Amritsar, as PW-02 who has produced

the record and has proved the copy of Bed Head Ticket, detail for disease, operation notes, nursing treatment, progress chart of hospitalization Ex.A1 of the earlier period, Ex.A2 of the subsequent period and hospital and medical bills Ex.A3, Ex.A19 besides Mark A4 to A 18 and Mark A20 to Mark 30. The bills have been produced on record in original. The respondents have not taken a plea of their fabrication. Accordingly, they cannot be disbelieve. Their total amount comes to Rs.1,82,544/-."

The contention raised by learned counsel for the appellant deserves acceptance. Once the Tribunal has come to the conclusion that the medical expenses amounting to ₹1,82,544/- were incurred, for which the bills were duly produced and proved by deposition of a Doctor, the appellant should have been compensated by awarding the said medical expenses.

The award dated 09.09.2015 is modified to the extent that the amount of ₹4,14,866/- awarded by the Tribunal is enhanced by ₹1,82,554/-.

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.

[AVNEESH JHINGAN]
 JUDGE

February 13, 2019
 pankaj baweja

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