

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

FAO-7599-2015(O&M)

Date of decision:-2.9.2019

Ravi Kumar

...Appellant

Versus

Sanjay Kumar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Munish Mittal, Advocate
for the appellant.

Mr.Vinod Gupta, Advocate
for respondent No.3.

H.S. MADAAN, J.

Petitioner/claimant Ravi Kumar had brought a claim petition under Section 166 of the Motor Vehicles Act against the respondents i.e. Sanjay Kumar – driver, Vikram Kumar – owner and United India Insurance Company Ltd., Karnal – insurer of Tata Magic bearing registration No.HR-45A-7479 (hereinafter referred to as the offending vehicle), claiming compensation to the tune of Rs.50 lakhs for the reason that on account of rash and negligent driving of the offending vehicle by respondent No.1 – Sanjay Kumar on 28.1.2013 in the area of Police Station Sadar, Karnal, he had suffered multiple, severe and grievous injuries on his person including fracture of his right and left shoulder.

In the petition, the petitioner had stated that after the

accident, he had been taken to Civil Hospital, Karnal where he was admitted and operated upon and thereafter he had taken treatment as OPD patient from private hospital. As per the case of the claimant, formal FIR No.73 dated 28.1.2013 for the offences under Sections 279, 337 and 338 IPC was registered with Police Station Sadar, Karnal.

On notice, all the three respondent had appeared and contested the claim petition. Issues on merits were framed. Parties were afforded adequate opportunities to lead evidence.

After contest, Motor Accidents Claims Tribunal, Karnal Tribunal while allowing the petition partly vide award dated 13.1.2015, awarded compensation of Rs.5,83,148/- along with interest @ 9% per annum from the date of filing of the petition till actual realization payable by respondents No.1 to 3 jointly and severally.

Feeling that the compensation awarded to him was on lower side, the claimant has filed the present appeal seeking enhancement of compensation, notice of which was given to respondents and respondent No.3 insurance company has appeared through its counsel.

I have heard learned counsel for the parties besides going through the record.

The Tribunal has calculated the compensation vide discussion under issue No.2. The Tribunal has referred to version of the claimant that he had suffered multiple and grievous injuries over his body as a result of accident and he was taken to Civil Hospital, Karnal where he was operated upon and since he could recover, therefore he had to visit various private hospitals such as Haryana Nursing Home, Karnal, Arvind

Hospital, Karnal for further treatment, which is still continuing and he had to spent Rs.6,25,000/- on treatment. The claimant had further examined PW2 Dr.Vineet Bhai of Arvind Hospital, who had deposed that on 28.1.2013, he had examined claimant Ravi Kumar, who had suffered injuries in a road side accident; that Ravi Kumar was subjected to C.T. Scan of head, which revealed left frontal depressed fracture with underlying sub arachnoid haemorrhage and contusion; that he was operated upon for the same on 28.1.2013; that exploration of wounds was done and depressed bones and damaged part of brain was removed; that duroplasty was done and post operatively patient improved and was discharged on 19.2.2013.

The claimant has been awarded a sum of **Rs.50,000/-** towards physical pain and agony, which amount I find to be just and proper.

Now coming to the amount awarded towards medical treatment. The Tribunal had added the amounts of medical bills Ex.P5 to Ex.P23, coming to Rs.3,00,148/-. The Tribunal has not taken into consideration certain bills and excluded those amounts from the total amount of Rs.3,00,148 but I find that in light of facts and circumstances of the case it can be reasonably inferred that the claimant would have incurred that much amount on his medical treatment. The Tribunal has not taken into view the fact that many a times, the record of various amounts spent on purchase of medicines in the form of bills, receipts, cash memos etc. is not kept or at times it gets misplaced or lost and some times some error creeps in while preparing the bill. Furthermore, no amount towards future treatment has been

awarded when according to the claimant, such treatment is still continuing. Thus, the compensation under that head is enhanced to **Rs.4,00,000/-**, which include future medical expenses also.

The amount of Rs.5,000/- each awarded by the Tribunal under the heads of transportation charges and special diet is on lower side. I enhance the said amount to Rs.25,000/- each(total **Rs.50,000/-**)

No amount has been awarded as attendant charges. The claimant having suffered injuries did require help of an attendant during the period of his hospitalization and then going to hospital for follow up treatment. A sum of **Rs.25,000/-** is accordingly awarded to the appellant/claimant on that score.

The Tribunal has awarded a sum of Rs.20,000/- to the claimant for the reason that he must have suffered loss of studies and could not have participated in sports activities. As per the case of the claimant, he was a student of BP Ed. and a National level player of water sports. As a result of suffering injuries in the mishap, he could not pursue his studies and his sports career has been adversely affected. Under the circumstances of the case, I enhance the amount to **Rs.50,000/-**.

On account of suffering injuries, the expectation of life has also been affected. A sum of **Rs.30,000/-** is awarded to the claimant under that head.

Thus, the total compensation comes out to **Rs.6,05,000/-**.

The Tribunal has awarded a sum of Rs.5,83,148/- along with interest @ 9% per annum from the date of filing of the petition till actual realization payable by respondents No.1 to 3 jointly and severally. The

same is enhanced to Rs.6,05,000/-. The claimants would be entitled to recover the enhanced amount of compensation of Rs.21,852/-(Rs.6,05,000 – Rs.5,83,148) with interest @ 7.5% per annum from the date of filing of the appeal till actual realization. The other terms and conditions given in the award shall remain the same.

With such modification, the appeal is allowed partly with costs.

2.9.2009
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No