

FAO No. 9335 of 2014 (O&M)

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

FAO No. 9335 of 2014 (O&M)

Date of Decision: February 06, 2019

Jagdish Kumar Maheshwari

..... Appellants(s)

Versus

Surender Singh and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. C.S. Singhal, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent no.2-insurance company.

LISA GILL, J.

This appeal has been filed by the injured/claimant seeking enhancement of the compensation awarded to him vide award dated 30.10.2012, passed by learned Motor Accidents Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal').

The appellant was involved in a motor vehicle accident, which took place on 09.10.2011 due to rash and negligent driving of the offending car bearing registration no. HR-29T-7474. The appellant suffered multiple injuries and he was taken to Bhatia Orthopedic & Maternity Nursing Home, Sector-7B, Faridabad where he was operated upon and remained admitted as an indoor patient from 9.10.2011 to 13.10.2011. FIR No.504, under Sections 279, 337 IPC was registered at Police Station Sector-7, Faridabad.

Petition under Section 166 of the Motor Vehicles Act, 1988 was

filed claiming compensation on account of injuries suffered by the appellant. It was claimed that the appellant-claimant was 51 years old and was serving with M/s. Akshay Alluminium Alloys, Faridabad, getting salary of Rs.16,000/- per month. Compensation to the tune of Rs.10 lakhs was claimed.

Learned Tribunal on considering the evidence on record, facts and circumstances awarded a sum of Rs.1,15,200/-, the detail of which is as under:-

1.	Medicine and treatment charges	59,200/-
2.	Transportation charges	3,500/-
3.	Attendant charges	4,000/-
4.	Special diet	4,000/-
5.	Pain and suffering	12,500/-
6.	Loss of income	32,000/-
	Total	1,15,200/-

Learned counsel for the appellant vehemently urges that the compensation awarded to the claimant should be enhanced. Learned Tribunal has ignored material evidence on record and awarded meagre compensation.

Learned counsel for respondent no.2-insurance company, however, prays that the impugned award dated 30.10.2012 does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding the appellant being injured in the motor vehicle accident, which took place on 9.10.2011 due to rash and negligent driving of car bearing registration no. HR-29T-7474 by its driver Surender Singh. PW-7 Dr. Pankaj Bhatia of Bhatia Orthopedic & Maternity Nursing Home, Sector-7, Faridabad deposed that the claimant was admitted at his nursing home on 09.10.2011. Claimant suffered fracture of 'both the bones of the right leg with a lacerated wound ankle with TA rupture leg'. Claimant was operated upon on 9.10.2011 and was discharged on 13.10.2011. Discharge summary Ex. P.26 was proved. It was further deposed that the appellant used to come for follow up treatment. The requisite bills were also proved by PW-7.

PW-8 Rajesh, Proprietor of Kathuria Auto Centre, proved the bills regarding the transportation. The medical bills were duly proved on record.

PW-9 Rajesh, HR Executive of Akshay Aluminium Alloys Private Limited, DLF Industrial Area, Phase-I, Faridabad testified that the claimant was their employee and he remained on leave without pay w.e.f. 9.10.2011 to 15.01.2012 and 2.3.2012 to 22.3.2012. Certificate in this respect (Ex.P-50) was proved by him.

Keeping in view the facts and circumstances of the case, it is considered appropriate to enhance the compensation awarded to the

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claimant on account of pain and suffering to Rs.50,000/- (instead of Rs.12,500/- awarded by learned Tribunal). Expenses incurred on the medical treatment etc. awarded by the learned Tribunal to the extent of Rs.59,200/- are maintained. Transportation expenses of Rs.3,500/- as per the bills produced is also maintained. Claimant is, however, entitled to attendant charges of Rs.8,000/- (instead of Rs.4,000/- awarded by learned Tribunal) and Rs.10,000/- on account of special diet (instead of Rs.4,000/- awarded by learned Tribunal). Furthermore, it is proved on record that the appellant remained on leave without pay for nearly four months, therefore, he is entitled to loss of income of four months i.e. Rs.64,000/- (16,000/- x 4) instead of two months as awarded by the learned Tribunal. The appellant is thus entitled compensation as detailed hereunder:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of income	64,000/- (16,000 x 4)
2.	Pain and suffering	50,000/-
3.	Medical expenses	59,200/-
4.	Transportation charges	3,500/-
5.	Attendant charges	8,000/-
6.	Special diet	10,000/-
	Grand Total	₹1,94,700/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization.

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It is clarified that claimant-appellant is not entitled to any interest for the period of delay in filing of this appeal as delay was condoned with a stipulation that the appellants shall not be entitled to any interest for the period of delay, in case of enhancement, if any.

Appeal is accordingly disposed of.

February 06, 2019.

Sunil

**(LISA GILL)
JUDGE**

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