

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

(1)

FAO No. 6942 of 2016 (O&M)
Date of Decision: 26.9.2019

Dholu Ram

...Appellant

Versus

Vikas and others

...Respondents

(1)

FAO No. 8030 of 2016 (O&M)

Sandeep

...Appellant

Versus

Vikas and others

..Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Raman Chawla, Advocate
for the appellant in both the cases.

Mr. D.K. Prajapati, Advocate, for
Mr. R.S. Madan, Advocate,
for respondents No.3—Insurance Company in both the cases.

JAISHREE THAKUR, J.

1. By this common order, this Court proposes to dispose of the above titled appeals, as they arise out of the same set of facts and involving the similar question of law. By way of the instant appeals, the appellants are seeking enhancement of compensation on account of the injuries suffered by them in an accident.

2. In brief, the facts are that in an accident that took place on 31.1.2015, the appellants herein suffered serious injuries. Therefore, the claimants filed claim petitions, while stating that on account of rash and negligent driving of the Pick-up Dala bearing registration No. HR-61-7080, the appellants sustained multiple serious and grievous injuries, including fractures on vital parts of their bodies. They both remained admitted in the hospital for 3 days and spent a sum of ₹1 lakh on their treatment. They examined Dr. Sumit (PW.1) of Ginni Ortho Centre Hisar, who deposed that he had examined both the claimants on 31.1.2015. Appellant—Dholu Ram had fracture tibia distal end for which surgery was done and patient was discharged on 2.2.2015. He proved the MLR as Ex. P17, bed head ticket as Ex. P18, discharge card as Ex. P19, follow up OPD slips as Exs. P20 to P.23. He also deposed that the hospital had charged ₹14,000/- as operation fee, room rent etc, vide bill Ex. P24. He also proved the bills Exs. P25 to P32, which reflect that a total amount qua medical expenses and hospital charges were ₹22566/-.

3. Similarly with respect to Appellant—Sandeep, Dr. Sumit deposed that he had fracture both bone leg left side for which surgery was done and patient was discharged on 2.2.2015. He proved medical rukka as Ex. P1, copy of MLR as Ex.P.2, bed head ticket as Ex. P3, discharge card as Ex. P4, follow up OPD slips as Exs. P5 to P.9. He also deposed that the hospital had charged ₹17,000/- as operation fee, room rent etc, vide bill Ex. P10. He also proved the bills Exs. P11 to P16. He further deposed that the claimant would require removal of implant which may cost him ₹10,000/-.

From the perusal of the aforesaid bills, it would be reflected that a total

amount qua medical expenses and hospital charges came to be ₹28,972/-.

4. The Tribunal, after taking into consideration the oral as well as documentary evidence, produced before it, awarded a total sum of ₹43,566/- to Dholu Ram i.e. a sum of ₹6,000/- towards loss of income, ₹5,000/- towards transportation, ₹5,000/- on account of diet and nutrition, ₹22,566/- towards hospital charges and ₹5,000/- for pain and suffering. Similarly, the Tribunal awarded a sum of ₹59,972/- to Sandeep i.e. a sum of ₹6,000/- towards loss of income, ₹5,000/- towards transportation, ₹5,000/- on account of diet and nutrition, ₹28,972/- towards hospital charges, ₹10,000/- future medical expenses and ₹5,000/- for pain and suffering.

5. Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side. It is submitted that in the accident both the appellants sustained multiple serious and grievous injuries, including fractures on vital parts of their bodies, duly proved by Dr. Sumit (PW.1). They both remained admitted in the hospital for 3 days and spent a sum of ₹1 lakh on their treatment, but the Tribunal has not specifically awarded any amount of compensation on account of attendant charges and the amount of compensation given on the other heads is inadequate and deserves to be enhanced. It is also submitted that in the case of claimant—Sandeep the amount given on account of future medical expenses is too meagre, particularly in view of the fact that the doctor, who examined him had stated that Sandeep would require removal of implant in future.

6. Per contra, learned counsel appearing on behalf of the respondent—insurance company submits that adequate amount of

compensation has been awarded by the Tribunal and no interference is called for.

7. I have heard learned counsel for the parties and perused the impugned award.

8. In a judgment rendered in **Raj Kumar Vs. Ajay Kumar and others (SC) 2011 (1) SCC 343**, a formula has been prescribed for assessing compensation to be paid to a claimant who has suffered injuries resulting in permanent disability, wherein it has been held that he has to be awarded compensation under the following heads namely:-

“F. Motor Vehicles Act, 1998, Sections 147, 166 and 173- Injury to a person in Motor accident- He is to be awarded compensation under following heads:- Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity)”

9. The Tribunal, as already noticed, after scrutiny of the evidence brought on record by the respective parties, awarded a sum of ₹43,566/- to

Dholu Ram and ₹59,972/- to Sandeep. However, the Tribunal did not grant any specific amount on account of attendant charges, inadequate compensation for loss of earning on account of fracture sustained, in view of the judgment rendered in **Raj Kumar's cases (supra)**, therefore, the compensation payable to the appellant deserves to be enhanced.

10. Keeping in view above facts, this Court is of the opinion that the appellants are entitled to specific compensation on account of attendant charges and also deserves some enhancement on other heads. Therefore, the compensation, which claimant is entitled to, is reassessed as under:-

Compensation payable to Dholu Ram

Sr. No.	Heads of claim	Amount
1	Compensation on account of loss of future earning and during treatment.	₹ 6,000 x4 =₹24,000
2.	Compensation towards attendant charges	₹ 2,000
3.	Compensation towards transportation	₹ 5,000
4.	Compensation for nutritious diet	₹ 10,000
5.	Medical expenses and hospital charges	₹22,566
6.	Pain and suffering	₹10,000
7.	Total	₹ 73,566

Compensation payable to Sandeep

Sr. No.	Heads of claim	Amount
1	Compensation on account of loss of future earning and during treatment.	₹ 6,000 x4 =₹24,000
2.	Compensation towards attendant charges	₹ 2,000
3.	Compensation towards transportation	₹ 5,000
4.	Compensation for nutritious diet	₹ 10,000
5.	Medical expenses and hospital charges	₹28,972
6.	Medical Future Expenses	₹20,000
7.	Pain and suffering	₹10,000
8.	Total	₹99,972

11. The award of the Tribunal is modified and the total

compensation payable to the claimant/Dholu Ram shall be ₹ 73,566/- and the amount payable to claimant/Sandeep shall be ₹99,972/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the appeal till the date of payment.

26.9.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No