

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

F.A.O. No. 1509 of 2017 (O&M)

DATE OF DECISION :- December 06, 2019

Vinod Kumar

...Appellant

Versus

Jai Bhagwan and others

...Respondents

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

Present:- Mr. Surender Saini, Advocate for the appellant.

Mr. Punit Jain, Advocate for respondent No. 3.

C.M. No. 5057-CII of 2017

This is an application for condonation of delay of 296 days in filing the appeal. I find that sufficient grounds are there to condone such delay, therefore, the application is accepted and the delay is condoned.

F.A.O. No. 1509 of 2017

Appellant Vinod Kumar had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents Jai Bhagwan-driver, Mukesh-owner and Shri Ram General Insurance Company Ltd., Jaipur-insurer of Mahindra Bolero No. HR-61-A-3482 (hereinafter referred to as the offending vehicle) claiming compensation on account of suffering injuries in a motor vehicular accident caused due to rash and negligent driving of Mahindra Bolero No. HR-61-A-3482 by respondent No. 1 Jai Bhagwan.

Briefly stated the facts of the case are that on 23.9.2013 claimant Vinod Kumar along with one Vijender son of Chander Singh resident of village Mehlana was going towards Sonapat on his motorcycle No. HR-60-E-

1562. At about 5.00 A.M. when they had reached near Desi Ghee Dhabha at Gohana-Sonepat road within the area of Police Station Sadar Sonepat, in the meanwhile, a Mahindra Bolero No. HR-61-A-3482 being driven by respondent No. 1 Jai Bhagwan in a rash and negligent manner came from opposite side and hit motorcycle of the petitioner. Resultantly, both the riders including the claimant fell down and suffered multiple injuries. After causing the accident, respondent No. 1 Jai Bhagwan ran away from the spot leaving the vehicle behind. F.I.R. No. 377 dated 23.9.2013 under Sections 279, 337 IPC was registered against respondent No. 1 at Police Station Sadar Sonepat. Petitioner injured was taken to General Hospital, Sonepat and on 24.9.2013 he was referred to PGI, Khanpur Kalan where he remained admitted till 10.10.2013. According to him, he had spent Rs.7,00,000/- on treatment and is still undergoing treatment. He claimed Rs.15,00,000/- as compensation.

On getting notice, all the three respondents appeared and filed written statements contesting the claim petition. Issues on merits were framed and parties were afforded adequate opportunities.

After hearing the arguments, the Motor Accidents Claims Tribunal, Sonepat vide Award dated 16.11.2015 awarded compensation of Rs.3,30,000/- to the appellant payable by all the three respondents jointly and severally with interest at the rate of 8% per annum from the date of filing of claim petition till actual realization. The split up of the compensation awarded is as follows :-

A.	Treatment expenses	Rs.2,20,000/-
B.	Transportation charges	Rs.10,000/- only
C.	Attendant Charges	Rs.15,000/-
D.	Special diet	Rs.5,000/- only
E.	Pain & Suffering and disability	Rs.50,000/- only
F.	Loss of income	Rs.30,000/- only.

Total

Rs.3,30,000/- only.

Petitioner claimant was not satisfied with the amount of compensation granted to him by the Tribunal, as such he has filed the present appeal, notice of which was given to respondent No. 3-Insurance company, which has put in appearance through counsel.

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

Learned Tribunal on evidence adduced before it has come to the conclusion that accident in which Vinod Kumar had suffered injuries had been caused due to rash and negligent driving of the offending vehicle by respondent No. 1. This finding is proper and appropriate and does not call for any interference. It being so, the driver, owner and the Insurance Company of the offending vehicle are liable to pay the compensation to the petitioner claimant. The offending vehicle was admittedly insured with the respondent Insurance Company at the relevant time and no violation of terms and conditions of the Insurance Company has come out to be there which might have absolved the Insurance Company from its liability to pay compensation to the claimant. As far as quantum of compensation is concerned, the Tribunal awarded a sum of Rs.2,20,000/- towards the treatment expenses. However, no amount has been awarded towards future medical expenses. Though the Tribunal has noticed that some times bills for purchase of medicines etc. are not issued by the Chemists and many a times such bills and receipts gets misplaced or lost but the amount awarded in that regard is on the lower side.

In my considered view, considering all the facts and circumstances the treatment expenses including for future treatment should be enhanced to Rs.3 lacs. It is directed accordingly. The petitioner claimant had

remained admitted in different hospitals for considerable time and a considerable amount must have been spent towards transportation and attendant charges besides providing special diet. The amount awarded under those Heads i.e. Rs.10,000/-, Rs.15,000/- and Rs.5,000/- respectively is certainly on lower side and the same is enhanced to Rs.25,000/- each. The amount awarded under the Head pain and suffering and disability to the extent of Rs.15,000/- is found to be proper and adequate. So is amount under Head loss of income to the tune of Rs.30,000/- but the Tribunal has not awarded any amount under various other conventional Heads. In that way, in my considered view, it would be proper and appropriate if the total compensation amount is enhanced to Rs.5 lacs. It is directed accordingly. The Tribunal has awarded compensation of Rs.3,30,000/-. In that way, the additional amount of compensation comes out to Rs.1,70,000/-(5,00,000 – 3,30,000), which is awarded to the claimant. The liability to pay such compensation shall be joint and several for all the three respondents. The claimant shall be entitled to get interest on the additional amount of compensation at the rate of 7.5% per annum from the date of filing of the claim petition till actual realization.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

December 06, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No