

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7722 of 2016 (O&M)

Date of decision : 20.9.2019

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Rakesh Kumar

.....Appellant

vs.

Sandeep Kumar and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. V.D. Sharma, Advocate for the appellant.

Mr. Sansar Kundu, Advocate for respondent No.1.

Mr. Harkesh Kumar, AAG, Haryana, for respondent No.2.

Mr. S.P. Arora, Advocate for respondent No.3-
Insurance company.

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H. S. Madaan, J. (Oral)

On account of suffering injuries in a motor vehicular accident, which took place on 29.9.2014, at about 1.40 P.M. in the area of Bus Stand, Narwana, statedly on account of rash and negligent driving of bus No. HR-56-A-6191, by respondent no.1. Sandeep Kumar, Rakesh Kumar – injured had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, against respondents i.e. Sandeep Kumar – driver, General Manager, Haryana Roadways, Jind - owner, as well as New India Assurance Company

Limited, Jind – insurer of bus No. HR 56-A-6191 (hereinafter referred to as 'the offending bus'), claiming compensation.

On being put to notice, all the three respondents had appeared and contested the claim petition. On conclusion of trial, the Motor Accident Claims Tribunal, Jind, vide award dated 11.3.2016, accepted the claim petition and granted a compensation of Rs.1,43,000/- to the claimant, alongwith interest @ 9% per annum from the date of institution of the claim petition till final realization, payable by all the three respondents, jointly and severally. The split up of the compensation, so awarded, is as under:-

1. On account of actual expenses spent on medical treatment.	Rs. 90,000/-
2. Physical pain and mental agony	Rs. 15,000/-
3. On account of loss of income during the treatment period of three months at the rate of Rs.6,000/- per month.	Rs. 18,000/-
4. On account of attendant, special diet expenses and transport expenses.	Rs. 20,000/-
Total	Rs.1,43,000/-

The claimant was not satisfied with the amount of compensation awarded to him by the Tribunal and has approached this Court by way of filing the present appeal.

On preliminary hearing, learned counsel for the appellant pressed for enhancement of compensation specially under the Head pain and suffering.

Notice of the appeal was given to the respondents, who had

put in appearance.

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

In the accident, the claimant has suffered multiple grievous injuries on his person, including fracture of left clavicle and ribs on right side and he was confined to bed for a considerable period. Though it is quite difficult to quantify the pain, suffering and mental agony undergone by a person suffering injuries, but I find that compensation awarded by the Tribunal to the tune of Rs.15,000/- under that Head, is somewhat on lower side and it calls for enhancement. Accordingly, the compensation under that Head is enhanced to Rs.50,000/-. Whereas no interference is called for, as regards the compensation awarded by the Tribunal, under the remaining Heads.

In that way, the appeal is accepted, partly.

The impugned award is modified and additional compensation of Rs.35,000/- (Rs.50,000 – Rs.15,000), is awarded to the claimant, payable by all the three respondents jointly and severally alongwith interest @ 7.5% per annum from the date of filing of appeal till actual realization. The amount of enhanced compensation be deposited by the Insurance company in the bank account of the claimant at the earliest.

(H.S. Madaan)
Judge

20.9.2019
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Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No