

FAO No. 342 of 2018 (O&M)

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

FAO No. 342 of 2018 (O&M)

Date of Decision: October 31, 2019

Sachin @ Sunny

..... Appellants(s)

Versus

Divender Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. J.P. Sharma, Advocate
for the appellant.

Service upon respondents no.1 to 3 dispensed with
vide order dated 15.11.2018.

Mr. Vinod Gupta, Advocate
for respondent no.4 - insurance company.

LISA GILL, J.(oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimant vide award dated 28.08.2017, passed by learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal) on account of the injuries and disability suffered by him in the motor vehicle accident, which took place on 11.10.2015.

The appellant-claimant filed a claim petition under Section 166 & 140 of the Motor Vehicles Act, 1988 seeking compensation on account of the injuries suffered by him in the motor vehicle accident, which took place on 11.10.2015, due to the rash and negligent driving of the offending bus bearing registration No. HR-63-C-5792, by its driver Divender Kumar-

respondent no.1. It is pleaded that the claimant aged 30 years was working as a skilled worker in a ply board factory at Taraori, thereby earning a sum of Rs.20,000/- per month. Learned Tribunal concluded that the accident in question took place due to the rash and negligent driving of the offending vehicle, by its driver Divender Kumar-respondent no.1 and the claimant received injuries leaving him with a disability of 15% and awarded a sum of Rs.2,80,077/-, detail of which is as under:-

1.	Medical expenses	1,91,077/-
2.	Loss of income (6000 x 4)	24,000/-
3.	Permanent disability (7 ½ x 2000)	15,000/-
4.	Attendant charges, special diet and transportation	25,000/-
5.	Pain and suffering	25,000/-
	Total	2,80,077/-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant submits that income of the deceased has been wrongly assessed and the same should be considered as per the evidence led by the claimant. Moreover, meagre compensation under the other heads has been awarded, which should be enhanced.

Learned counsel for respondent no.4-insurance company, however, prays that there is no scope for any enhancement of compensation awarded to the appellant, 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 record with their able assistance.

There is no dispute regarding the appellant having suffered injuries in the motor vehicle accident, which took place on 11.10.2015, due to the rash and negligent driving of the offending bus bearing registration No. HR-63-C-5792, by its driver Divender Kumar-respondent no.1. The appellant was left with a permanent disability to the extent of 15%. It is a matter of record that the claimant-appellant after the accident was admitted at Sanjeev Bansal Cygnus Hospital, Karnal where he remained admitted for 15 days and was operated upon. The medical record including the MLR Ex.P7, admission and discharge record Ex.P4 to P6 reveal that claimant suffered a fracture in 'the proximal shaft of both bones of his right forearm along with bifrontal contusion and Grade II laceration of liver'. PW4 Dr. Deep Inderjeet Singh, Orthopaedic Surgeon of the above said hospital deposed in respect to the injuries suffered by the claimant. Dr. Vinod Kumar, Orthopaedic Surgeon, KCGMCH, Karnal who testified as PW3, has proved the disability certificate Ex.P1, which reveals that the claimant suffered disability to the extent of 15% of the limb. Though, the appellant-claimant is stated to be working as a skilled worker at the ply board factory at Tarori and he produced on record pay slips for the month of September and July 2016, Ex.P12 and Ex.P13, wherein the appellant was shown to be earning a sum of Rs.8,016 and Rs.7,858/- per month, respectively, but no official from the company was examined. However, it is not denied by learned counsel for the insurance company that even the minimum wage of

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an unskilled labourer in the State of Haryana at the relevant time was Rs.7,600/- per month. Keeping in view the facts and circumstances of the case, income of the appellant-claimant is assessed as Rs.7,600/- per month. The appellant is thus entitled to a sum of Rs. 30,400/- (7,600 x 4) on account of actual loss of income. Instead of a sum of Rs.15,000/- awarded by the learned Tribunal on account of permanent disability, appellant is entitled to a sum of Rs.30,000/- (15000 x 2). Appellant is also entitled to a sum of Rs.50,000/- for pain and sufferings instead of a consolidated sum of Rs.25,000/- awarded by learned Tribunal. Appellant is further entitled to a sum of Rs.50,000/- for loss of amenities of life. Appellant is further entitled to Rs.10,000/- each towards attendant charges, special diet and transportation charges instead of Rs.25,000/- awarded by the learned Tribunal on all these counts. Compensation towards medical expenses as awarded by the learned Tribunal is maintained.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Medical expenses	1,91,077/-
2.	Permanent disability	15000 x 2 = 30,000/-
3.	Loss of income	7,600 x 4 = 30,400/-
4.	Pain and suffering	50,000/-
5.	Loss of amenities	50,000/-
6.	Attendant charges	10,000/-
7.	Special diet	10,000/-
8.	Transportation charges	10,000/-
	Total	3,81,477/-

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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 at the rate of 7.5% per annum instead of 9% on the enhanced amount from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

October 31, 2019.

Sunil

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