

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

F.A.O. No. 6460 of 2017 (O&M)

Date of Decision: 22.10.2019

Dalbara Singh

.....Appellants.

Versus

Jagsir Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rajbir Singh, Advocate
for the appellant.

Mr. Vipul Sharma, Advocate
for respondent no.3.

LISA GILL, J.

Appellant-claimant seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Sangrur, vide impugned award dated 21.11.2016, on account of injuries received by him in the motor vehicle accident which took place on 01.04.2013.

Appellant filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of the injuries, which he received in an accident which took place on 01.04.2013 due to the rash and negligent driving of the offending vehicle i.e., Indica Car bearing registration No.PB-11-BA-5975, by its driver-respondent no.1-Jagsir Singh. FIR No. 50, dated 04.04.2013, under Sections 279, 337, 338, 427, 506 IPC, Police Station Bhawanigarh, was registered against respondent no.1-Jagsir Singh, in this respect.

Learned Tribunal on considering the facts and circumstances of the case concluded that the accident in question indeed occurred due to rash and negligent driving of the offending vehicle by respondent no.1-Jagsir Singh. Said finding of the learned tribunal has attained finality.

Learned tribunal awarded a sum of ₹1,87,515/- along with interest @ 7.5 % per annum from the date of filing of the claim petition till realisation of the amount to the claimant. Details of the compensation awarded by the learned tribunal is as hereunder:-

Sr. No.	Heads of Claim	Amount
1.	Medical expenses	₹94,515/-
2.	Permanent disability	₹68,000/-
3.	Special diet	₹5000/-
4.	Transportation charges	₹10,000/-
5.	Pain and sufferings	₹10,000/-
	Total	₹1,87,515/-

Learned counsel for the appellant vehemently argues that the learned tribunal has not taken into account the multiple occasions when the appellant was admitted to different hospitals and operated upon. Initially, the claimant was admitted at Gulzar Hospital, Malerkotla from 26.04.2013 till 29.04.2013, thereafter, he was operated upon on 24.12.2013 at Sidhu, Hospital Private Limited, Ludhiana and ultimately discharged on 28.12.2013. It is further submitted that the claimant in a very fair manner, did not even press for the medical expenses incurred by him for his treatment at Fortis hospital, Mohali, as the same was reimbursed to him by his employer. He was operated upon at K.D.Hospital, MRI and C.T. Scan, Ambala Cantt., and remained admitted from 01.09.2014 till 09.09.2014. Therefore, meagre compensation has been awarded by the learned tribunal. It is thus prayed that the present appeal be allowed and the compensation awarded to the appellant-claimant be enhanced.

Learned counsel for the respondent-Insurance Company, while

refuting the same, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have heard learned counsel for the parties and have gone through the record with their assistance.

Receipt of injuries by the appellant in a motor vehicle accident which took place on 01.04.2013, leading to 34% permanent disability being suffered by the appellant, is not in dispute. Disability certificate, Ex.C-2, has been proved on record by CW-2-Dr. Arvind Kumar, Senior Resident, Rajindra Hospital, Patiala. It has further come on record that the appellant suffered multiple injuries including fractures on his right leg and injuries on the ankle. He was operated upon and obtained treatment from various hospitals as mentioned in the foregoing paras. Though, learned counsel for the appellant submits that the appellant suffered functional disability and consequent loss of earnings, there is no such evidence on record to substantiate the claim. The appellant was statedly earning ₹35,000/- per month i.e. ₹11,134 from pension and remaining from a finance company. Learned tribunal has rightly concluded that there is no evidence on record in respect to the income, purportedly earned by him, from the finance company owned by him or from any agricultural pursuits. The appellant has been unable to prove that he has suffered such a disability which has adversely affected his earning capacity or which has led to a functional disability causing a loss of any earning/income. In this view of the matter, learned tribunal has correctly proceeded to award a sum of ₹68,000/- towards permanent disability suffered by the appellant and the is accordingly upheld.

Medical expenses, which have been awarded as per the bills produced by the claimant, are maintained. However, the appellant is held entitled to a sum of ₹50,000/- instead of ₹10,000/- towards pain and sufferings as well as ₹50,000/- towards loss of amenities. Keeping in view the nature of the injuries suffered and the treatment received by the appellant at various hospitals, he is held entitled to a sum of ₹20,000/- instead of ₹10,000/- towards transportation charges and a sum of ₹10,000/- instead of ₹5000/- towards special diet. ₹10,000/- is awarded towards attendant charges.

Compensation towards the claimant-Dalbara Singh on account of the injuries and disability suffered by him is thus re-worked as under:-

Sr. No.	Heads of Claim	Amount
1.	Medical expenses	₹94,515/-
2.	Permanent disability	₹68,000/-
3.	Pain and suffering	₹50,000/-
4.	Loss of amenities	₹50,000/-
5.	Transportation charges	₹20,000/-
6.	Special diet	₹10,000/-
7.	Attendant charges	₹10,000/-
	Grand Total	₹3,02,515/-

Amount already awarded by the Tribunal to claimant-Dalbara Singh shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization.

There is a delay of 6 days in filing of this appeal. Keeping in view the fact that the matter has been adjudicated on merits, question of delay in filing of this appeal is rendered academic. Application is

accordingly disposed of.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

22.10.2019

s.khan

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

[LISA GILL]
Judge