

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

**FAO-5248 of 2018 (O&M)
Date of Decision:11.09.2019.**

Gaurav Sharma .

.... Appellant

Versus

Vinod and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.R.K.Saini, Advocate for the appellant.
 Mr.Rajbir Singh, Advocate for respondent No.3.

JAISHREE THAKUR, J.

1. Instant appeal has been filed seeking to challenge the amount of compensation as awarded by the Motor Accident Claims Tribunal, Karnal.
2. In brief, the facts are that on 21.12.2016 at about 6:30/7:00 PM, Sanjay son of Shri Joginder (since deceased) and Gaurav son of Shri Vijender Kumar were going towards the village Chorpura on a motor cycle bearing registration No.HR75-B-5005. While they were crossing the village Biani they were hit by the offending tractor bearing registration No.HR05-AL-7270 being driven by respondent No.1 Vinod Kumar. Due to the accident both Sanjay and Gaurav fell down on the road and driver of the offending vehicle bearing registration No.HR05-AL-7270 ran away.
3. Due to the accident Sanjay died, whereas Gaurav sustained injuries on his person. The FIR was registered at Police Station Indri,

District Karnal bearing No.478 dated 22.12.2016 against the driver of the tractor bearing registration No.HR05-AL-7270.

4. Gaurav Sharma, the injured filed a claim petition stating that he remained admitted in Dr.Arvind Hospital, Karnal for treatment from 21.12.2016 till 27.12.2016 and thereafter he was referred to a hospital at Maulana where he was remained admitted from 28.12.2016 to 22.01.2017 as an indoor patient. In order to substantiate his claim he examined Vijender Kumar his father, who is the author of the FIR, who categorically deposed about the accident having taken place and that offending tractor was being driver by Vinod Kumar in rash and negligent manner being loaded with sand. It was stated that respondent No.1 ran away from the spot. Dr. S.K. Tayagi was examined as PW-3 who deposed that the claimant Gaurav Sharma was admitted in their hospital on 10.04.2017, as a case of mal union V and IV fingers right hand. He was admitted on account of injuries and was operated by Dr. Anubhav Jain (M.S. Orthopedics). He was discharged from the hospital with instructions to follow up. The said witness proved hospital bill No.33807 dated 11.04.2017 Ex.PW3/A for a sum of Rs.96,000/-. PW-4 Sh. Malkiat Singh, Record Keeper, M.M. Hospital, Maulana deposed on oath that the patient was admitted on 28.12.2016 and was discharged on 22.01.2017. He also proved medical bill Ex.PW4/A for a sum of Rs.58,180/- along with admission slip and discharge slip as well as the treatment record of the claimant. PW-7 Dr. Vinod Kamal, Orthopedic Surgeon of Kalpana Chawla Government Medical College and Hospital, Karnal deposed on oath that on

02.08.2017 he alongwith members of the board had examined the claimant Gaurav Sharma and assessed his disability at 24% while approving the disability certificate as issued on 02.08.2017 as Annexure PW7/A.

5. The respondents did not lead any evidence and consequently the Tribunal assessed that the compensation as under :-

i).	Medical bills amounting to	Rs.3,71,754/-
ii).	Loss of future earning on account of permanent disability to the tune of	Rs.4,77,187/-.
iii).	Physiscal and mental pain suffered by injured.	Rs.5,000/-.
iv).	Special died to the tune of Rs.	Rs.2,000/-.
v).	Loss of amenities & loss of expectation of life to the tune of	Nil
vi).	Transportation charges	Rs.2000/-
vii).	Attendant charges	Nil
Total		Rs. 8,57,941 or rounded of to Rs.8,57,940/-.

6. The liability to pay the said compensation was fixed upon all the respondents jointly and severally. The factum of the accident is not disputed since the respondents failed to examine even a single witness in order to rebut the evidence of the claimant. Therefore, the question that survives is whether the compensation as awarded by the Tribunal is adequate. The Tribunal has allowed compensation on account of loss of future earnings, on account of permanent disability and allowed reimbursement of medical bills amounting to Rs.3,71,754/-. However, has not allowed anything for attendant charges or adequate compensation for

pain and suffering, transportation and special diet. There is no dispute that the petitioner remained in hospital for several days i.e. from 21.12.2016 to 27.12.2016 and 28.12.2016 to 22.01.2017. Therefore, facing in capacity as regards managing his daily chores he would necessarily be allowed attendant charges which are assessed at Rs.5,000/-. On account of special diet, this court deems it appropriate to enhance the sum from Rs.2000/- to Rs.10,000/-, transportation charges from Rs.2,000/- to Rs.4,000/- and on account of pain and suffering for the two injuries is enhanced from Rs.5,000/- to Rs.50,000/-. Consequently the amount is enhanced by Rs.60,000/-.

7. The insurance company is hereby held liable to pay the enhanced amount of compensation to the appellant within a period of two months along with 7.5% interest from the date of filing the appeal till realization.

Appeal is allowed accordingly.

(JAISHREE THAKUR)
JUDGE

11.09.2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No