

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5937 of 2018
Date of decision: 28.3.2019

Rahul through next friend Rajiv Kumar (father)
.. Appellant

v.

Ramanand and others
.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S. K. Yadav, Advocate for the appellant.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 25.4.2018 passed by the Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') has been assailed seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the injuries sustained by the appellant in a motor vehicular accident.

The facts necessary for adjudication of the present appeal are that on 28.2.2017, Rahul (appellant) along with his uncle Mukesh Kumar was standing on the kacha portion of the road at village Sihore. At about 9.30 PM, a motorcycle bearing registration No. HR-34F-5515 (hereinafter referred to as 'the offending vehicle') hit the appellant, as a result he suffered injuries. FIR No. 76 dated 3.3.2016 was registered at Police Station, Kanina.

In the claim petition filed under Section 166 of the Act, the Tribunal after considering the facts and on appreciating the evidence

adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹36,500/- along with interest @ 9% per annum. The detail of the compensation awarded is mentioned below:

1.	Medical bills	₹15,500/-
2.	Transportation	₹5,000/-
3.	Pain and suffering	₹5,000/-
4.	Special diet	₹5,000/-
5.	Disability	₹6,000/-
Total:		₹36,500/-

Learned counsel for the appellant contends that the amount awarded for pain and suffering is on the lower side as the appellant suffered fractures in legs.

For the view being taken, it is not deemed appropriate to issue notice to the insurer at this stage.

From a perusal of the award and the relevant documents produced by learned counsel for the appellant, it is forthcoming that though there is a claim of 3% permanent disability suffered by the appellant but no doctor was examined and yet the Tribunal awarded ₹6,000/- for disability. There is no deposition of any medical expert to substantiate the nature of injuries and the treatment undergone by the appellant. However, it was pleaded and proved that the appellant remained hospitalised for 12 days.

In order to award just and equitable compensation for the pain and suffering and to cover the attendant charges, considering the pleadings,

period of hospitalisation and the nature of injuries, the amount awarded by the Tribunal is enhanced by ₹25,000/-. It is clarified that while enhancing the amount, the interest to be awarded under Section 171 of the Act has been taken into consideration.

The appeal stands disposed of.

It is clarified that in case the insurer is aggrieved of the order passed, it would be at liberty to revive the appeal by moving an application.

(AVNEESH JHINGAN)
JUDGE

28.3.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No