

FAO No. 6077 of 2018 (O&M)

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

**FAO No. 6077 of 2018 (O&M)
Date of Decision: April 02, 2019**

IFFCO TOKIO General Insurance Company Ltd.

..... Appellants(s)

Versus

Sukesh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vishal Aggarwal, Advocate
for the appellant.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 03.05.2018, passed by learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal).

Sole argument raised by learned counsel for the appellant in this case is that the claimant-respondent no.1 suffered 100% disability in relation to his hearing and not vision. Reference is made to certificate dated 26.04.2017 (Ex.PW4/B), issued by the office of the Civil Surgeon, Narnaul wherein it is mentioned that Sukesh Kumar (respondent-claimant) has 100% permanent disability in relation to his hearing. It is submitted that learned Tribunal in this situation has erred in concluding that the claimant-

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respondent no.1 suffered from 100% visual incapacity and awarded compensation on this basis. Accordingly, compensation awarded to the claimant should be reduced.

No other argument has been raised.

I have heard learned counsel for the appellant and have gone through the photocopy of the record, which was requisitioned.

Brief facts necessary for the adjudication of the case are that claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the claimant-respondent no.1 seeking compensation on account of injuries suffered by him in a motor vehicle accident, which took place on 17.06.2016. It is pleaded that the claimant suffered multiple injuries and was left with 100% visual handicap. Learned Tribunal concluded that the claimant received injuries in this motor vehicle accident, which occurred due to the rash and negligent driving of the offending vehicle, by its driver Harish Chander. There is no serious challenge to this finding of the learned Tribunal and neither is there any evidence on record to indicate otherwise.

Claimant was accepted to be working as a D.G. Operator in Central University Pali, Mohindergarh but his claim of earning Rs.10,000/- per month was not accepted in toto as learned Tribunal assessed the claimant's income to be Rs.9,000/- per month and awarded a sum of Rs.25,78,157/- to the appellant-claimant, the detail of which is as under:-

Sr. No.	Heads	Calculations
1.	Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure.	5,66,157/- + 10,000/- + 10,000/- + 10,000/-
2.	Loss of income during the period of treatment + loss of future income	54,000/- + 17,28,000/-
3.	Future medical expenses	Nil
4.	Damages for pain, suffering and trauma	50,000/-
5.	Loss of amenities	1,00,000/-
6.	Loss of expectations of life	50,000/-
	Total	25,78,157/-

PW-4 Dr. Lav Kumar, Senior Medical Officer, Government Hospital, Narnaul has proved disability certificate Ex. PW4/A, wherein it is specifically mentioned that the claimant-respondent no.1 has suffered visual handicap of 100%. PW-4 specifically deposed that the disability is permanent and is not likely to improve. He has also proved disability certificate Ex.PW4/B.

Evidence on record does not come to the aid of learned counsel for the appellant in any manner to substantiate the argument that the claimant did not suffer a 100% visual disability. There is clear and cogent evidence on record to prove that the claimant-respondent no.1 suffered 100% visual incapacity in the shape of the testimony of PW-4 Dr. Lav

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Kumar, SMO, Government Hospital, Narnaul, who has duly proved the disability certificate Ex.PW4/A. It is clearly mentioned that the patient suffers from complete “optic atrophy (old case of road side accident with EDH, SAH and craniotomy) visual handicap of the patient is 100% (hundred percent).”

Therefore, there is no illegality, infirmity or perversity in the impugned award dated 03.05.2018, passed by the learned Motor Accidents Claims Tribunal, Narnaul, which calls for any interference by this Court at the instance of the appellant-insurance company.

No other argument has been addressed.

There is a delay of 35 days in filing of this appeal. As the same has been adjudicated upon on merits, decision on the application for condonation of delay is rendered academic. Application is disposed of accordingly.

Appeal is accordingly dismissed with no order as to costs.

April 02, 2019.

Sunil

**(LISA GILL)
JUDGE**

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