

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

FAO-3866-2005 (O&M)

Date of decision: 16.03.2022

Dharambir

....Appellant

Versus

Prem Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.K.Garg, Advocate for the appellant

Mr. Manmohan, Advocate for the respondent

Mr. Harsh Vardhan, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The appellant suffered grievous injuries in an automobile accident, which occurred on 10.03.2002. The appellant's right leg suffered fracture in both the leg bones. He remained hospitalized in PGIMS, Rohtak for a total period of 18 days. As per the disability certificate, he suffered temporary disability to the extent of 50%. The Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') has assessed the amount of compensation at Rs.60,000/-. The appellant has also been awarded Rs.5,000/- for the repair of the motorcycle.

The correctness of the findings of the Tribunal with regard to the manner in which the accident took place and the rash and negligent driving of Prem Singh (driver of the bus) are not questioned.

The only issue pressed before the Court is with respect to quantum of the compensation.

Learned counsel representing the appellant contends that although the appellant failed to prove the invoice of purchase of medicines, nonetheless, he remained admitted in hospital for a total period of 18 days. The Court should make an assessment on the basis of the thumb rule in such cases. He further submits that the appellant has not been awarded any amount for pain and the suffering, special diet, attendant and the conveyance charges.

The appellant was admittedly unemployed. The Tribunal has awarded Rs.40,000/- towards the temporary disability and Rs.20,000/- towards the medical expenses.

Keeping in view the aforesaid facts, this Bench is left with no choice but to use the thumb rule. There is no definite evidence to either prove the medical expenses or the conveyance charges. Therefore, the fact that the appellant remained admitted in hospital for a period of 18 days, the amount of medicines spent can be assessed at the rate of Rs.2,000/- per day. Apart from that, the appellant must have undergone pain and suffering for quite some time as Plaster of Paris was applied during the treatment for fracture. Hence, on account of the pain and suffering the amount is assessed at Rs.50,000/-.

Towards the conveyance charges and special diet, the amount is assessed at Rs.25,000/-. Accordingly, the appeal is partly allowed. The appellant is held entitled to an amount of Rs.1,56,000/-.

Sr.No.	Head	Amount Awarded Tribunal	by Amount awarded by this High Court
1	Income	NIL	
2	Expenses of Treatment including Medicines, Investigation, Conveyance, pain & sufferings etc.	Rs.20, 000/-	Rs.36,000/-
3	Permanent Disability (15%)	Rs.40, 000/-	Rs.40,000/-
4	Damage to the Vehicle	Rs.5, 000/-	Rs.5,000/-
5	Pain and suffering	Nil	Rs.50,000/-
6	Special diet, conveyance etc.	Nil	Rs.25,000/-
	Total	Rs.65, 000/-	Rs.1,56,000/-

The enhanced amount of Rs.91,000/- shall be payable with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its payment.

All the pending miscellaneous applications, if any, are also disposed of.

16.03.2022
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE