

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

FAO-3127-2011(O&M)

Date of decision: 19.05.2022

Sukhdev

....Appellant

Versus

Jai Pal alias Sonu and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Chetan Kapoor, Advocate for the appellant
Mr. Aseem Mehta, Advocate for respondent no.2
Mr. R.C.Gupta, Advocate for respondent no.3

ANIL KSHETARPAL, J (Oral)

The claimants pray for the modification of the award dated 18.12.2010 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal'). The appellant, in order to prove the injury suffered by him, examined Dr. Parveen Garg. The Tribunal, while analyzing the evidence of Dr. Parveen Garg has observed as under:-

“In support of his case, the claimant has also examined PW 3 Dr. Parveen Garg, who when stepped into the witness box deposed that on 11.8.2007 Sukhdev son of Sudhan Ram was admitted in his Hospital and he remained in the Hospital till 7.9.2007. He further stated that the patient was admitted with alleged history of road side accident. Firstly, he was taken to Dr. Virk Hospital, Karnal. X-ray chest, abdomen and pelvis was done. At the time of admission the patient was irritable and drowsy, pale and sweating. Abdomen was extended and tenderness was present. Ultra sound showed free fluid pelvis and both gutters. Urinary bladder showed clothes. Operation exploratory laparotomy with supra public cystosmy with repair of mesenteric tear was done. He further stated that he charged Rs.55,000/- vide receipts Ex.P-1 to Ex.P-3. He further stated that the patient was again admitted on 17.3.2008 and was operated upon on 18.3.2008 and at that time he charged Rs.9,200/- from the claimant. The patient was again admitted on 11.4.2008 and

was discharged on 12.4.2008.”

The Tribunal has assessed the amount in the following manner:-

i)	Compensation for pain and suffering	Rs.2,000/-
ii)	Compensation for better diet	Rs.2,000/-
iii)	Medical expenses	Rs.65,140/-
iv)	Loss of income	Rs.3,000/-
v)	Transportation charges	Rs.2,000/-
		Rs.74,140/-

In para 15, the Tribunal noted that the period of hospitalization of the injured was 25 days, which is factually incorrect. As per the statement of Dr. Parveen Garg, the appellant was admitted in the hospital on 11.08.2007 and remained admitted till 07.09.2007, which is total of 29 days. During that time surgical procedure known as “*exploratory laparotomy with suprapubic cystostomy with repair of mesenteric tear was done.*”

The Tribunal has further stated that the patient was admitted on 17.03.2008, for another surgical operation on 18.03.2008. The appellant was once again admitted in the hospital on 11.04.2008 and discharged on 12.04.2008. The correctness of the aforesaid statement is not disputed. Thus, the Tribunal has failed to award proper compensation to the injured. The appellant continued to suffer pain and suffering for quite sometime. His hospitalization was for a period of one month. Hence, for the pain and suffering, the amount will be Rs.50,000/-, for the better and nutritious diet the amount is assessed at

Rs.20,000/-. The medical expenses as

awarded by the Tribunal are maintained. For the loss of income, the Tribunal has only awarded Rs.3,000/- which is ridiculously low. The appellant had suffered injuries in his stomach as well as thighs. His hospitalization for a period of one month is sufficient to prove the nature of the injuries suffered by him. The appellant claims to be working as a mason. Hence, the total loss of income is assessed at Rs.1,00,000/-. Accordingly, the amount of compensation is reworked as under:-

Heads	Compensation awarded by the Tribunal	Compensation awarded by this High Court
Compensation for pain and suffering	Rs.2,000/-	Rs. 50,000/-
Compensation for better diet	Rs.2,000/-	Rs.20,000/-
Medical expenses	Rs.65,140/-	Rs.65,140/- (no change)
Loss of income	Rs.3,000/-	Rs.1,00,000/-
Transportation charges	Rs.2,000/-	Nil
Total amount	Rs.74,140/-	Rs.2,35,140/-

The appellant is held entitled to the enhanced amount of Rs.1,61,000/- alongwith interest @ 8% per annum from the date of filing of the claim petition till its realization.

The appeal stands disposed of.

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

19.05.2022
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE