

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

395

FAO-4084-2011

Date of Decision: 19.09.2022

Saddiq

---Appellant

versus

M/s Mahindu and Associates and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ashish Gupta, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. Vinod Gupta, Advocate
for respondent No.3- Insurance Company.

JAGMOHAN BANSAL, J. (ORAL)

1. The appellant through instant appeal is seeking enhancement of compensation awarded vide award dated 24.02.2011 passed by Motor Accident Claims Tribunal, Nuh (for short 'Tribunal') whereby Tribunal has awarded a sum of Rs.3,65,000/- along with interest @ 6% per annum from the date of filing of the claim petition.

2. The facts emerging from record and necessary for the adjudication of present appeal are that on 08.09.2007 at about 7.30 a.m., the petitioner while driving a motorcycle met with an accident with JCB bearing registration No.HR-38N-3532 driven by respondent No.2 i.e. Ranivr son of Fateh Ram. The appellant by profession was a driver and in the accident suffered 25% permanent disability in the form of loss of vision. The appellant filed a petition under Section

166 of Motor Vehicles Act, 1988 (for short, '1988 Act') seeking compensation on account of permanent disability suffered by him. The Tribunal finding driver of JCB guilty of causing injuries to appellant, awarded a sum of Rs.3,65,000/- under different headings as below :-

1	On account of 25% permanent disability as per Disability Certificate Ex.P34	Rs.50,000/-
2	On account of expenses on medicines, treatment and operation etc. as per bills Ex.P1 to Ex.P6, Ex.P15 to Ex.P17, Ex.P38 to Ex.P44	Rs.1,75,000/-
3	On account of expenses on special diet, transportation, pain agony and suffering and attendant etc.	Rs.40,000/-
4	On account of loss of earning during hospitalization and recovery taking into consideration that he was a driver	Rs.50,000/-
5	On account of loss of enjoyment of future life due to mental disability	Rs.50,000/-

3. Learned counsel for the appellant contended that he is more or less satisfied qua compensation awarded under different headings except physical disability because appellant was a driver and on account of partial loss of vision cannot drive vehicle and this fact stands confirmed in the deposition of Dr.Preeti Singh-PW7. Thus, he should be awarded more compensation under heading permanent disability.

4. Per contra, learned counsel for the respondent-insurer pleaded that appellant has been fairly awarded under different headings and there is nothing on record to conclude that appellant was a driver. It is just an assertion of the appellant that he was a driver.

5. I have perused the record and heard arguments of both sides.

6. I do not find any substance in the argument of insurer that appellant was not a driver because there is no evidence contrary to pleadings of appellant that he was a driver and there is positive deposition in favour of appellant that he cannot drive vehicle on account of 25% disability. The dispute lies in the narrow compass i.e compensation under heading permanent disability. The Tribunal has awarded a sum of Rs.50,000/- whereas learned counsel for appellant claimed that it should be Rs.2 lakhs.

7. After considering the entire facts and circumstances and keeping in mind that appellant was a driver and on account of loss of partial vision, he cannot carry on his vocation, thus, I find it appropriate to enhance the amount of compensation under heading permanent disability from Rs.50,000/- to Rs.1.5 lakhs.

8. The appellant is entitled to interest @ 7.5% only on the enhanced amount from the date of filing of claim petition till the date of actual payment.

9. The respondent-Insurer is directed to make payment within a period of eight weeks from today.

10. The appeal is disposed of in the above-stated terms.

(JAGMOHAN BANSAL)
JUDGE

19.09.2022

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