

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

415

FAO-2366-2012

Date of Decision: 20.09.2022

Ambesh Kumar

---Appellant

versus

Gurdarshan Singh and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vinay Puri, Advocate
for the appellant.

Mr. Radhe Shyam Sharma, 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 04.02.2012 passed by Motor Accident Claims Tribunal, Panchkula (for short 'Tribunal') whereby learned Tribunal has awarded a sum of Rs.1,22,984/- 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 appellant was working as Assistant Foreman in M/s Amrit Vanspati Company Ltd., Rajpura and was getting salary of Rs.7,000/- per month. On 04.10.2009, while going to Nada Sahib Gurudwara, he met with an accident with a

Maruti Zen car bearing registration No. CH-03H-0797. The appellant

suffered injuries and was got admitted in General Hospital, Sector 6, Panchkula from where he was shifted to Government Hospital, Sector 32, Chandigarh and remained admitted from 05.10.2009 to 14.10.2009. The right leg of the appellant was operated.

3. The appellant filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of injuries suffered by him. The appellant claimed that he had incurred expenses more than Rs.2 lakhs on account of surgery and medicines. He further contended that appellant is suffering from permanent disability to the extent of 5% and he remained absent from duty for a period of 6 months. Learned Tribunal considering medical bills submitted by the appellant and nature of job as well as the period during which he remained absent granted compensation of Rs.1,22,984/- under different headings as below :-

i)	Actual amount spent on treatment and purchase of medicines	Rs.26888/-
ii)	Loss on account of salary for six months	Rs.43596/-
lii)	Transportation 30 trip @ Rs.1000 per trip	Rs.30000/-
iv)	Pain and suffering	Rs.10000/-
v)	Special diet	R.7500/-
vi)	Attendant charges	Rs.5000/-
	Total	Rs.1,22,984 /-

4. Learned counsel for the appellant contended that appellant remained hospitalised for 11 days and is suffering from 5% permanent disability. Though he examined doctor who operated him, yet, he could not submit the disability certificate. Admittedly, the

appellant could not join his place of work for a period of 6 months and he has suffered a lot of pain during this period. At present inspite of surgery he is not able to perform his daily activities. Thus, the claim awarded by learned Tribunal is on lower side. He further contended that rate of interest should be 9% whereas Tribunal has awarded interest @ 6 % per annum.

5. Learned counsel for the insurer submitted that there is no infirmity in the order passed by learned Tribunal which has awarded just and reasonable compensation. Supporting findings of learned Tribunal, learned counsel submitted that there is no reason to enhance the amount of compensation.

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

7. The conceded position emerging from record is that appellant had met with an accident. He was not responsible for the accident. He remained hospitalised for 11 days and had undergone right leg surgery. He had incurred expenses on the surgery. The appellant could bring on record bills of medical expenses to the tune of Rs.26,888/-. The appellant examined doctor, however, failed to bring on record permanent disability certificate which as per appellant is 5%.

8. Having regard to the nature of injuries, nature of job of appellant, the period during which the appellant remained absent from duty, the period during which the appellant suffered pain, I am of the opinion that amount awarded under heading 'pain and

suffering' deserves to be enhanced from Rs.10,000/- to Rs.50,000/-.

Accordingly, the amount of compensation awarded under heading 'pain and suffering' is enhanced from Rs.10,000/- to Rs.50,000/-. In view of judgments of a five-Judge Bench of **Hon'ble Supreme Court in National Insurance Company vs. Pranay Sethi and others 2017 (16) SCC 680** and a three-Judge Bench of Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121**, the rate of interest needs to be enhanced from 6% to 7.5%. Accordingly, the rate of interest is enhanced from 6% to 7.5% which would be payable from the date of filing of claim petition till the date of actual payment. It is made clear that amount already paid would be deducted from claim determined hereinabove.

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 abovesaid terms.

(JAGMOHAN BANSAL)
JUDGE

20.09.2022

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