

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision:9.9.2022

FAO No. 7121 of 2011 (O&M)

Dheeraj Kumar

---Appellant

versus

Dharam Pal and others

---Respondents

FAO No. 7122 of 2011 (O&M)

Nisha Yadav

---Appellant

versus

Dharam Pal and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Parminder Singh, Advocate
for the appellant (in both the appeals)

Mr. Pardeep Goyal, Advocate
for respondent No. 3

JAGMOHAN BANSAL, J.

1. By this common order, two appeals bearing FAO Nos. 7121 of 2011 and 7122 of 2011 which are arising from same incident and award dated 13.06.2011 passed by Motor Accident Claims Tribunal (FTC), Karnal (for short "Tribunal") whereby learned Tribunal has awarded a sum of Rs. 2,04,266/- to claimant-Dheeraj Kumar and a sum of Rs. 41,738/- to claimant-Nisha Yadav, alongwith interest @ 6% per annum, are hereby decided. Claimants-appellants have filed appeals seeking enhancement of compensation.

2. Brief facts emerging from record and necessary for the adjudication of present appeals are that Dheeraj Kumar-appellant (FAO No. 7121 of 2011) and his wife Nisha Yadav-appellant (FAO No. 7122 of 2011) while travelling in Maruti Alto Car bearing registration No. HR-99-DPHQ-TEMP-0488 on 5.6.2009 met with an accident with a canter bearing registration No. HT-38M-2206. In the accident both the appellants sustained multiple injuries which took away both of them to hospital. Both the appellants preferred claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short “1988 Act”) before learned Tribunal seeking compensation on account of injuries which they suffered in the aforesaid accident.

3. The petitions came up for consideration before learned Tribunal which vide order dated 13.6.2011 awarded a sum of Rs. 2,04,266/- to Dheeraj Kumar and Rs. 41,738/- to Nisha Yadav. Learned Tribunal concluded that accident in question had taken place due to rash and negligent driving of canter bearing registration No. HT-38M-2206 being driven by Dharam Pal-respondent.

4. FAO No. 7121 of 2011

Learned counsel for the appellant submitted that amount awarded is meager in comparison to injuries, physical as well mental suffered by appellant. He primarily contended that a sum of Rs. 5000/- has been awarded on account of pain and suffering. The appellant received multiple injuries especially on his head and remained hospitalized from 5.6.2009 to 9.6.2009.

FAO No. 7122 of 2011

Learned counsel for the appellant submitted that amount

awarded is meager in comparison to injuries, physical as well mental suffered by appellant. He primarily contended that a sum of Rs. 5000/- has been awarded on account of pain and suffering. The appellant suffered injuries on various parts of her body, both legs were fractured and her front four teeth were broken. The appellant remained hospitalized from 6.6.2009 to 8.6.2009.

5. Learned counsel for the insurer did not dispute admission of both appellants in hospital and injuries suffered by them. However, he pleaded that there is no permanent disability, thus, the appellants were entitled for compensation to the extent of medical expenses.

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

7. After considering injuries suffered by both the appellants and their admission in hospital, I am of the considered opinion that compensation awarded under heads other than medical expenses is on lower side and it deserves to be enhanced. Counsel for the insurer has conceded that couple remained in hospital for 5 days and they suffered multiple injuries. It is well known fact that injuries though may not be permanent, cause physical and mental pain. Physical and mental suffering cannot be quantified in monetary terms. However, it is duty of the Court to determine just and fair compensation, keeping in view the nature of injuries, period of hospitalization, status of parties and other mitigating circumstances.

Keeping in view the entire facts and circumstances, amount of compensation awarded to Dheeraj Kumar (husband) is increased from Rs.

2,04,266/- to Rs. 2,50,000/- and from 41,738 to Rs. 1.00.000/- awarded to Nisha Yadav (wife).

8. The claimants are entitled to interest @ 7.5% per annum instead of 6% per annum as awarded by learned Tribunal. Therefore, rate of interest is increased from 6% to 7.5% per annum. It is made clear that amount already paid would be deducted from claim determined hereinabove.

The respondents are directed to make payment within a period of eight weeks from today.

9. Appeals are allowed. Pending miscellaneous applications, if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

9.9.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No