

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

**FAO No. 5472 of 2014
Date of Decision:14.9.2022**

Ram Lal

---Appellant

versus

Babu Ram and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sukhwinder S.Kamboj, Advocate
for the appellant

Mr. V. Ramswaroop, Advocate
for respondent No. 2-insurance company

JAGMOHAN BANSAL, J. (ORAL)

1. The appellant through instant appeal is seeking enhancement of compensation awarded vide award dated 5.2.2014 passed by the Motor Accident Claims Tribunal, Panchkula (for short "Tribunal").

2. The brief facts emerging from record and arguments of both sides are that Ram Lal-appellant went for four days' holy visit to Haridwar from his native place. At Haridwar, he hired an auto rickshaw (three wheeler) bearing registration No. UK-07-TC-1078 which was being driven by Babu Ram-respondent No. 1. The driver of auto rickshaw, to save a person who came in front of auto rickshaw, applied brake of the vehicle and appellant as well as his friend Tarsem Chand got seriously injured. Both were hospitalized at

Government Hospital, Rishikesh and DDR No. 23 dated 30.7.2011

was lodged at P.S. Raiwala, District Dehradun (UK).

The appellant remained in hospital for quite long time. He was operated but still became 20% disabled. The appellant filed claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short "1988 Act") seeking compensation for the injuries suffered by him.

Tribunal vide award dated 5.2.2014, allowed claim of the appellant and awarded a sum of Rs. 1,20,000/- as compensation for the injuries suffered by him. It is apt to notice here that in paragraphs No. 36 and 37 of award passed by Tribunal, facts of some other case are copied. A Co-ordinate Bench of this Court had called report from Tribunal which vide its report dated 12.1.2016 has confirmed that there is mistake in paragraph Nos. 36 and 37, however, compensation has rightly been calculated in paragraph No. 38.

3. Learned counsel for the appellant contended that Tribunal has awarded a sum of Rs. 68,700/- (paragraph 34 of the impugned award) on account of treatment, medicines and operation, Rs. 25,000/- on account of loss of income during the course of treatment and Rs. 26,300/- on account of pain and sufferings, loss of amenities of life, special diet, medicine and transportation.

Learned counsel further submitted that as noticed in paragraph 35 of impugned award, the appellant is suffering from 20% permanent disability. The petition was filed under Section 163-A of 1988 Act, thus, as per Second Schedule, compensation on account of disability comes to Rs. 1,15,200/-.

4.

Per contra, learned counsel for the insurance company

does not dispute the factum of accident and entitlement of appellant to compensation. Though did not concede yet expressed his inability to support amount of compensation determined by Tribunal under headings 'injuries and permanent disability'.

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

6. It is undisputed fact that appellant has undergone medical treatment in two different hospitals. He remained admitted in a hospital at Panchkula from 28.5.2011 to 2.6.2011 where he was operated. As per deposition of Dr. Rakesh Kumar, Civil Hospital, Mohali, the appellant is suffering from permanent disability to the extent of 20%. The income of appellant could not be assessed less than Rs. 3200/- per month.

7. Keeping in view permanent disability, the mandate of the Second Schedule of the 1988 Act and consent of both the parties, I find that claim awarded on account of pain and sufferings, permanent disability, loss of amenities of life, special diet, medicines, transportation etc. should be increased from Rs. 26,300/- to Rs. 1,25,000/-. The amount of compensation on account of medical expenses (Rs. 68,700/-) does not warrant interference. A sum of Rs. 25,000/- awarded on account of loss of work also does not warrant interference. Accordingly, amount of compensation is enhanced from Rs. 1,20,000/- to Rs. 2,18,000/-.

The appellant is entitled to interest at the rate awarded by Tribunal 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.

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

Appeal stands partly allowed in the aforesaid terms.

Pending miscellaneous applications, if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

14.9.2022
PARAMJIT

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