

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

246

**FAO-7414-2017 (O&M)
Decided on : 31.03.2022**

Baljinder Singh

... Appellant(s)

Versus

Rahul and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Ms. Ekta Thakur, Advocate
for the appellant.

None for respondents No.1 & 2.

Mr. Ram Avtar, Advocate
for respondent No.3 – Insurance Company.

MANJARI NEHRU KAUL, J. (Oral)

CM-24680-CII-2017

This is an application under Order 41 Rule 27 CPC for placing on record the additional evidence on behalf of the appellant.

Notice of motion was issued. However, no reply *qua* additional evidence has been filed on behalf of the respondents.

After hearing learned counsel for the parties and perusing the averments made in the application, which is supported by an affidavit of the appellant, the present application is allowed and the additional evidence i.e. copy of invoice/bill dated 13.07.2016, attached as Annexure A-1 along with the application is taken on record.

FAO-7414-2017

The instant appeal has been preferred by the appellant/claimant for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), vide

award dated 15.05.2017, wherein, a total compensation in the sum of Rs.1,27,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till its actual realization, was awarded and respondents No.3 – Insurance Company was held liable to pay the amount of compensation to the appellant/claimant.

The challenge by the appellant/claimant has been made to the meager quantum of compensation awarded to him for multiple injuries sustained by him in the accident which took place on 04.07.2016, when he was going on his motorcycle bearing registration No. PB-65V-3711 from Gurudwara Shaheedan, Sohana to his home. At about 05:30 AM, when he reached near PCL Chowk, 3BII, Mohali, an Innova Car bearing registration No. PB-01-9806, driven by respondent No.1 at a high speed in a rash and negligent manner, hit him from the back side. Due to the said impact, the appellant/claimant fell down along with his motorcycle and sustained multiple injuries on his vital organs besides suffering a fracture on his left leg. The claimant's motorcycle was also damaged in the said accident. Soon after the accident, the appellant/claimant was referred to the PGI, Chandigarh, where, he underwent surgeries and steel rods were inserted in his leg. Besides this, he also underwent surgery, as his intestines had been ruptured in the accident in question.

In support of his case, the appellant/claimant besides examining himself as PW-1 tendered relevant documents Ex.P-1 to Ex.P-99 in evidence.

The Tribunal on the basis of the nature of injuries suffered, age of the appellant/claimant and after taking into consideration the evidence led, awarded the following compensation to the appellant/claimant:-

<i>Sr. No.</i>	<i>Head(s)</i>	<i>Amount (in Rs.)</i>
1	Medical Bills	Rs.47,904
2	Pain & suffering	Rs.30,000
3	Disability	Rs.6000
4	Hospitalization & Healthy diet	Rs.20,000
5	Transportation assessed	Rs.3,000
6	Loss of income assessed	Rs.20,000
	<i>Total:</i>	<i>Rs.1,26,904</i>

Learned counsel for the appellant/claimant has vehemently submitted that the amount of compensation awarded is meager and requires re-assessment and enhancement. He submits that the appellant/claimant remained hospitalized for a week. However, while passing the impugned award, the learned Tribunal failed to appreciate that during that time he underwent a lot of pain and suffering and also incurred various other expenses which should have been considered while passing the impugned award.

Learned counsel respondent No.3 – Insurance Company, however, disputed and opposed the submissions made by the counsel opposite by submitting that the amount awarded was just and adequate, which did not warrant any interference of this Court.

After hearing learned counsel for the parties and perusing the relevant material on record including the additional evidence i.e. copy of invoice dated 13.07.2016 (Annexure A-1), this Court is of the opinion that the compensation awarded by the Tribunal requires to be reassessed and enhanced in the following terms:-

The appellant/claimant admittedly suffered multiple injuries in the accident in question, including the fractures on his ribs as well as his left leg, as a result of which, steel rods were inserted in his leg. It is also a matter of record that his liver/intestine were ruptured, for which he had to

be operated upon. During his hospitalization from 04.07.2016 to 15.07.2016, the appellant/claimant was operated upon twice. In the circumstances, the compensation under the heads of pain & suffering and hospitalization & healthy diet, stand enhanced by Rs.10,000/- each. Besides this, the appellant/claimant being a civil contractor and shall have to be taken to be a skilled worker and thus, loss of income is accordingly, enhanced by Rs.10,000/-. The transportation charges also stands enhanced from Rs.3000/- to Rs. 6000/-, as he remained an outdoor patient, even after being discharged.

Resultantly, the compensation is re-assessed as follows:-

<i>Sr. No.</i>	<i>Head(s)</i>	<i>Amount (in Rs.)</i>
1	Medical Bills	Rs.47,904/-
2	Pain & suffering	Rs.40,000/-
3	Disability	Rs.6000/-
4	Hospitalization & Healthy diet	Rs.30,000/-
5	Transportation assessed	Rs.6,000/-
6	Loss of income assessed	Rs.30,000/-
	Total:	Rs.1,59,904/-
		Round off to Rs.1,60,000/-

The appellant/claimant shall be entitled to interest at the rate of 7.5% per annum (as awarded by the Tribunal) on the entire amount, from the date of filing of the present appeal till realization.

With these modifications, the present appeal stands disposed of in above terms.

(MANJARI NEHRU KAUL)
JUDGE

March 31, 2022

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No