

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

**FAO No.4960 of 2014
Date of Decision : 25.05.2022**

Om Parkash

....Appellant

Versus

Hem Kumar and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vivek Suri, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. Suvir Dewan, Advocate
for respondent No.3/Insurance Company.

PANKAJ JAIN, J.

Claimant is in appeal seeking modification of the Award passed by the Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') in the Claim Petition filed under Section 166 of the Motor Vehicles Act, 1988.

2. The compensation has been claimed on account of injuries suffered by the claimant on 12th November, 2011 in a motor vehicular accident.

3. As per the claimant while he was going towards village Surajpur, a tipper bearing registration No.HR-68-0872 being driven rashly and negligently at high speed by respondent No.1 came from Pinjore side and hit his motorcycle. Due to impact, the

claimant fell down and his right leg was crushed under the offending vehicle. A case bearing FIR No.216 dated 12th November, 2011 under Sections 279, 338 and 427 of the Indian Penal Code was registered at Police Station Pinjore.

4. On the basis of the pleadings of the parties, Ld. Tribunal framed the following issues :-

1. *Whether claimant has suffered injuries in the accident in question which has taken place on 12.11.2011 due to rash and negligent driving of Tata tipper no.HR-68-0872 being driven by respondent no.1 rashly and negligently? OPP*
2. *Whether claimant is entitled to compensation to the tune of Rs.15 Lacs along with interest, as prayed for and who is liable to pay? OPP*
3. *Whether respondent no.1 drove the vehicle in question in violation of terms and conditions of insurance policy? OPR No.3.*
4. *Whether respondent no.1 was not having valid driving licence and valid insurance cover, if so, to what effect? OPR*
5. *Relief.*

5. I have heard counsel for the parties and have gone through the records of the case.

6. Since the finding recorded w.r.t. accident and the injuries suffered by the claimant is not in question, the scope of this appeal is limited to the compensation awarded by the Tribunal i.e. Issue No.2.

7. Counsel for the claimant asserts that nothing has been awarded under the heads of loss of income during treatment, attendant charges, loss of amenities and compensation on account of pain & suffering owing to fracture and surgery. He further submits that the compensation awarded under the heads of special diet and the loss of earning also needs to be enhanced.

8. At the time of accident injured/claimant was 66 years of age. Owing to the injuries suffered in the accident his right leg has been amputated for which he remained admitted in PGIMER Chandigarh from 12th November, 2011 to 20th November, 2011. One Surinder Singh appeared as PW-4 and stated on Oath that he dressed-up/bandaged injured Om Parkash from 21st November, 2011 to 30th October, 2012 and charged a total sum of Rs.69,000/- for the same. He has produced receipts/bills Exhibit P-44 to Exhibit P-70 to prove the same. However, while calculating compensation the Tribunal has not considered the said receipts/bills in the absence of there being any certificate/diploma which could prove that PW-4 was a qualified person to render the services he has charged for.

9. In the considered opinion of this Court, it has been proved on record that the claimant suffered amputation of right leg. It has also come on record that at the time the claimant suffered accident, he was working and running a grocery shop thus, the appellant should not have been denied loss of income during treatment and the same is assessed at Rs.10,000/-.

No amount has been awarded by the Tribunal for attendant charges which is assessed at Rs.15,000/-. Keeping in view the injury suffered by the appellant, meager sum of Rs.3,000/- awarded by the Tribunal for special diet further needs enhancement and the same is enhanced to Rs.20,000/-. The compensation awarded for pain and suffering on account of surgery is also enhanced from Rs.9,000/- to Rs.50,000/-. Even if it is held that PW-4 was not qualified for dressing the post-surgery wounds of the appellant it cannot be denied that the appellant required post-surgery dressings. Further, a sum of Rs.25,000/- is awarded to the claimant for the same.

10. Consequently, the impugned Award dated 27th November, 2013, passed by the Motor Accident Claims Tribunal, Panchkula is modified. The claimant is granted the following compensation under various heads :-

Sr. No.	Heads	Awarded amount	Enhanced amount
1	Loss of income during treatment	---	Rs.10,000/-
2	Attendant Charges	---	Rs.15,000/-
3	Special Diet	Rs.3,000/-	Rs.20,000/-
4	Pain and suffering on account of surgery	Rs.9,000/-	Rs.50,000/-
5	Post-surgery bandage/dressing	---	Rs.25,000/-

11. The total compensation be calculated accordingly and paid to the claimant/appellant along with interest as awarded as awarded by the Tribunal.

12. Needless to say that any amount already paid to the claimant shall be set off.
13. Appeal stands disposed off accordingly.

May 25, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned

Whether reportable

:

:

Yes/No

Yes/No