

FAO-31 of 2023

2023:PHHC:138756

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

FAO-31 of 2023

Date of decision: 12.10.2023

Pankaj

.....Appellant

Versus

Rudhar Khan and others

.....Respondents

FAO-471 of 2023 (O&M)

IFFCO TOKIO General Insurance Company Ltd.

.....Appellant

Versus

Pankaj and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Vishal Nehra, Advocate,
for the appellant in FAO-31 of 2023 and
for respondent No.1 in FAO-471 of 2023.

Mr. Vishal Aggarwal, Advocate,
for appellant-Insurance Company in FAO-471 of 2023 and
for respondent No.3 in FAO-31 of 2023.

NAMIT KUMAR, J.

1. By this common order afore-mentioned two appeals are being disposed of. FAO-31 of 2023 has been filed by the appellant-claimant (hereinafter referred to as 'the claimant') against the award passed by the Motor Accident Claims Tribunal, Sonapat (for short 'the Tribunal') on 04.11.2022, for enhancement of the amount of compensation, whereby claimant has been awarded compensation to

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the tune of Rs.28,00,523/- along with interest at the rate of 7% per annum from the date of institution of the claim petition till the realization of whole of the amount of compensation to be paid by respondents No.1 to 3 jointly and severally, on account of injuries suffered by him in a motor vehicular accident and FAO-471 of 2023 has been preferred by the Insurance Company for setting aside the award dated 04.11.2022.

2. For the sake of brevity, facts are being taken from FAO-31 of 2023. Shorn and short of unnecessary details, the facts culminating in the filing of the present appeal are that claimant filed a petition against the respondents, the respective driver, owner and the insurer of the offending vehicle bearing registration No.RJ-14GF-0814, seeking compensation of Rs.1 crore, while averring that on 26.03.2019 he along with his wife Renu was returning to his home at Village Garhi Ujjale Khan, Tehsil Gohana, on motorcycle bearing No.HR-11J-0905. When they reached near Ronak Dhaba Gohana bypass, the offending vehicle, which was being driven by respondent No.1 in a rash and negligent manner and at a high speed, struck against the motorcycle of the claimant. As a result of which claimant got locked in the backside of the trolly and wheel of the trolly crushed his legs.

3. All the respondents filed their respective written statements contesting the claim, as set-forth by the claimant in the petition, on various grounds. The Tribunal put the parties to the trial by framing the issues. After appreciating and evaluating the evidence as led by the parties on the record and hearing their counsel, the Tribunal

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passed the impugned award, granting compensation to the claimant, as already indicated in the opening para of this judgment.

4. Learned counsel for the appellant-claimant contended that the Tribunal has awarded a meagre amount of Rs.28,00,53/- to the claimant for the pain and suffering undergone by him due to the injuries sustained in the above-said accident. He further contended that the Tribunal has wrongly applied the multiplier of '16' instead of '17' as the claimant was 28 years of age at the time of accident. He further contended that due to the accident appellant has been rendered 75% permanent disable due to amputation of his leg whereasthe Tribunal has wrongly assessed the disability of the appellant as 50%. He contended that compensation awarded to the appellant is liable to be enhanced.

5. On the other hand, learned counsel for respondent No.3- Insurance Company has opposed the present appeal. He contended that disability suffered by the appellant has rightly been assessed by the Tribunal. However, he admits that at the time of accident, age of the appellant was 28 years and instead of '16', multiplier of '17' should have been applied.

6. I have heard learned counsel for the parties and perused the record.

7. So far as contention of the learned counsel for the appellant that appellant suffered 75% physical disability whereas the Tribunal has wrongly assessed the same as 50%, the same is not acceptable inasmuch as perusal of certificate Ex.P58 shows that 75% permanent disability suffered by the appellant-claimant is in relation to

his particular limb and not as a whole. Therefore, the Tribunal has rightly assessed the disability of the appellant as 50%.

8 Admittedly, at the time of accident age of the appellant-claimant was 28 years and the Tribunal has wrongly applied the multiplier of ‘16’for calculating the amount of compensation, however, multiplier of ‘17’ is applicable in the present case and when so applied, the amount of compensation comes to 10,000x12x17=Rs.20,40,000/-. Accordingly, the net enhanced amount of compensation, as shall be payable to the appellant, is worked out as under: -

Sr. No.	Heads of Claim	Compensation awarded by the Tribunal (in Rs.)	Compensation awarded by this Court (in Rs.)	Enhancement
1.	Loss of Income during treatment, Special diet & Transportation	19,20,000/-	20,40,000/-	1,20,000/-
2.	Medical Expenses			
(i)	Medicines/Medical bills/Hospital Charges	7,60,523/-	7,60,523/-	---
(ii)	Hospital Charges including implant	---	---	---
(iii)	Attendant Charges	---	---	---
(iv)	Transportation	20,000/-	20,000/-	---
(v)	Future expenses	---	---	---
3.	Pain & Suffering	1,00,000/-	1,00,000/-	---
	Total	28,00,523/-	29,20,523/-	1,20,000/-

9. As a sequel to the foregoing discussion, FAO-31 of 2023 is allowed to the extent that the appellant-claimant is entitled to the net enhanced compensation amounting to Rs.1,20,000/-, over and above the amount of Rs.28,00,523/- as already awarded to him by the Tribunal and the said enhanced amount shall carry the interest 7% per annum from the date of filing of claim petition till its actual realization and shall be payable to the appellant in terms of the impugned award.

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Accordingly, FAO-471 of 2023 filed by the Insurance Company is hereby dismissed.

12.10.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No