

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

**FAO-2361-2013 (O&M)
Date of decision : 30.01.2023**

Ombir

... Appellant(s)

Versus

Mahipal & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Lajpat Rai Sharma, Advocate for
Mr. Vivek Khatri, Advocate for the appellant.

Mr. Suvir Dewan, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

The present appeal has been preferred by the injured claimant-appellant against the award dated 11.12.2012 passed by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'Tribunal'). Since the factum of the accident in the present case is not in dispute, the facts are not being adverted to.

Learned counsel for the claimant-appellant would submit that though the bills worth Rs.52,735/- stood proved, however, since some of the bills were not found to be genuine, the amount of the bills was restricted to Rs.30,665/- and an amount of Rs.20,070/- was deducted as penalty for presenting bogus bills. Learned counsel would contend that the claimant-appellant suffered a fracture mandible maxilla and a fracture over the right

wrist and he also sustained lacerated wound on tongue and lower-lip and

hence the amount awarded under the head pain and sufferings and for loss of income is on the lower side.

Per contra, learned counsel for respondent No.2 has contended that sufficient amount has been awarded and since the claimant-appellant did not approach the Court with clean hands, hence, a penalty has rightly been imposed. It is further the contention that there is no scope of enhancement.

Heard.

In the present case the following compensation was awarded by the Tribunal to the claimant-appellant :

Sr. No.	Heads	Compensation Awarded
1	Medical Bills	Rs.30,665/-
2	Transportation and attendant charges	Rs.7,000/-
3	Loss of earnings	Rs.3,000/-
4	Pain and sufferings	Rs.5,000/-
5	Total Compensation	Rs.45,665/-
	Interest	7.5% per annum

It is come in the evidence that bills worth Rs.52,735/- stood proved and hence there was no reason to impose a penalty for presenting bogus bills. The Motor Vehicles Act, 1988 is a beneficial piece of legislation and no penalty is envisaged under the said Act for presenting a bogus bill. The same may not be considered while awarding the compensation, however, the claimants cannot be penalized for the same. In view of the above, an amount of Rs.52,735/- is awarded towards the medical bills. The minimum wages at the time of the accident were Rs.3,914/- per month. However, only an amount of Rs.3,000/- has been awarded as loss of earnings

for a period of one month and hence the same is enhanced to Rs.3,914/-.

The amount of Rs.5,000/- awarded by the Tribunal under the head pain and sufferings is also on the lower side keeping in view the fact that the claimant-appellant suffered a fracture mandible maxilla and a fracture over the right wrist and he also sustained a lacerated wound on the tongue and lower-lip and hence the amount under head of pain and sufferings is enhanced to Rs.50,000/-. Further, an amount of Rs.15,000/- is also awarded towards special diet. The amount of Rs.7,000/- awarded by the Tribunal towards the expenditure for transportation and attendant is maintained.

Accordingly, the modified amounts as awarded are as under :

Sr. No.	Heads	Compensation Awarded
1	Medical Bills	Rs.52,735/-
2	Transportation and attendant charges	Rs.7,000/-
3	Loss of earnings	Rs.3,914/-
4	Pain and sufferings	Rs.50,000/-
5	Special Diet	Rs.15,000/-
6	Total Compensation	Rs.1,28,649/-
	Amount Awarded by the Tribunal	Rs.45,665/-
	Enhanced amount	Rs.82,984/-

The enhanced amount i.e. **Rs.82,984/-** shall carry an interest @ 7.5% from the date of filing of the claim petition till realization.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified to the above extent.

Pending applications, if any, also stand disposed off.

30.01.2023

Yogesh Sharma

(ALKA SARIN)
JUDGE