

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

FAO-6158-2014(O&M)

Date of decision:-2.2.2023

Ravinder Singh

...Appellant

Versus

Mandeep Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Surinder Saini, Advocate
for the appellant.

Respondents No.1 and 3
were proceeded against ex-parte vide order dated 11.4.2016.

Ms.Madhu Sharma, Advocate
for respondent No.2.

H.S. MADAAN, J.

1. Briefly stated, the facts of the case are that petitioner/claimant Ravinder Singh aged about 40 years son of Kuldeep Singh, resident of House No.152, Phase 6, Mohali had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act) against Mandeep Singh – driver, National Insurance Company Ltd., Chandigarh – insurer and Amandeep Singh son of Balbir Singh – owner of Toyota Innova Car bearing registration No.CH-03-X-1415 (hereinafter referred to as the offending car) before Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter referred to as as the

Tribunal).

2. As per the case of the claimant, he was working as a Technical Assistant with Punjab Forest Complex, Sector 68, Mohali getting a salary of Rs.6,600/- per month; on 6.10.2011 said Ravinder Singh was going from his house to village Manda on his motorcycle bearing registration No.PB-65-D-6335; Amarjit Singh along with Harbans Singh was going from Gharuan to Morinda on their scooter; the petitioner was going ahead of them; at about 11:30 a.m., the offending car being driven in a rash and negligent manner by respondent No.1 Mandeep Singh struck against the motorcycle of the petitioner; resultantly, the petitioner fell in the ditches adjoining to the road; respondent No.1 Mandeep Singh driver of the offending car stopped it and came near Amarjit Singh and Harbans Singh, who are trying to rescue the petitioner/injured; respondent No.1 disclosed his name and identity; taking advantage of the fact that several people had gathered at the spot, respondent No.1 ran away therefrom along with his vehicle; the petitioner was shifted to Civil Hospital, Kharar from where he was referred to PGI, Chandigarh.

3. On account of suffering injuries in the accident, right leg of the petitioner got fractured and his motorcycle was damaged. Formal FIR bearing No.135 dated 8.10.2011 for the offences under Sections 279, 337, 338 and 427 IPC was got registered with Police Station Kharar. The petitioner/injured was medically examined and necessary treatment was given to him. The permanent disability in his right leg was assessed to be 85%, which was non-progressive and not likely to improve. The petitioner remained hospitalized also. He had filed the claim petition in question,

claiming compensation, payable all the three respondents.

4. On notice, all the three respondents appeared and filed separate written statements contesting the claim petition.

5. Respondent No.1 in his written statement denied having caused any accident stating that a false FIR was got registered against him in order to get easy compensation. He prayed for dismissal of the claim petition.

6. In the written statement filed by respondent No.2 – insurance company, it raised various preliminary objections, on merits refuting the assertions in the claim petition.

7. Respondent No.3 in the separate written statement filed by him admitted that the car is being owned by him, which was duly insured with respondent No.2 – insurance company. He he denied the remaining averments in the claim petition.

All the three respondents prayed for dismissal of the claim petition.

8. Issues on merits were framed. The parties were afforded adequate opportunities to lead their evidence in support of their respective claims.

9. After contest, the Tribunal allowed the claim petition vide award dated 15.1.2014 and awarded compensation of Rs.12,82,100/- to the claimant along with interest @ 6% per annum from the date of filing of the petition till realization, payable by all the respondents jointly and severally.

10. Feeling that the compensation awarded to him was on lower

side, the claimant has filed the present appeal seeking enhancement of compensation, notice of which was given to respondents. Respondent No.2 – insurance company appeared through counsel.

11. I have heard learned counsel for the parties besides going through the record.

12. The Tribunal in view of the pleadings of the parties and on analysis of the evidence come to the conclusion that respondent No.1 Mandeep Singh was author of the accident in which petitioner/claimant had suffered injuries on account of rash and negligent driving of the offending car. It being so, the petitioner/claimant could successfully lay basis for claiming compensation from all the three respondents i.e. driver, owner and insurance company of the offending car. The Tribunal had assessed the compensation payable by respondents to the petitioner/claimant as below:

Medical Expenses	Rs.77,861/-
Loss of earning during period of treatment(2 months).	Rs.13,200/-
Permanent disability 75% by taking multiplier of '15'.	Rs.8,91,000/-
Pains and Sufferings Amputation of leg below knee.	Rs.50,000/-
Admission to hospital.	Rs.50,000/-
Loss of Amenities	Rs.1,00,000/-
Loss of Expectation of life	Rs.1,00,000/-
Total	Rs.12,82,061/-

(Rounded of Rs.12,82,100/-)

13. However, I find that though the medical expenses awarded to

the petitioner claimant are to the extent of Rs.77,861/-, which amount has been calculated on the basis of bills and receipts proved in evidence by the petitioner/claimant. But then it is not possible to keep record of each and every penny spent on medical treatment or to get bills/receipts on account of purchase of medicines for comparatively small amount for undergoing tests or for purchasing any medical equipment for the treatment of the injured. In my considered view this figure needs to be enhanced to **Rs.1,00,000/-**.

14. As regards the compensation awarded under the head loss of earning during the period of treatment of two months, the Tribunal considering the gross salary of the claimant as Rs.6,600/- per month has awarded him compensation of **Rs.13,200/-** (6600 x 2), which is proper and appropriate.

15. With regard to compensation on account of permanent disability of 75% by using multiplier of 15, the Tribunal arrived at figure of **Rs.8,91,000/-**. The same is found to be proper and appropriate.

16. Then under the heads pain and sufferings amputation of leg below knee and admission to hospital, compensation of **Rs.50,000/- each** has been awarded, whereas for loss of amenities and under the head of loss of expectation of life **Rs.1,00,000/- each** have been awarded which amount is found to be sufficient.

17. However, the Tribunal omitted granting compensation under various other conventional heads. The petitioner/claimant deserves to be compensated for the expenses to be incurred in future towards his treatment and his right leg having been amputated below knee he may be

requiring an artificial leg. Therefore, I award a sum of **Rs.1,00,000/-** to the petitioner/claimant in that respect.

18. With regard to the head transportation charges to meet the expenses for travelling to hospital from home and back by the petitioner/claimant, during the period of his treatment, though the Tribunal has noticed this aspect but has not granted any compensation under the head. A sum of **Rs.25,000/-** is awarded to the petitioner/claimant on account of transportation charges.

19. A person suffering such type of injuries does require special diet to regain health. A sum of Rs.25,000/- deserves to be awarded to the petitioner/claimant on that count. I award **Rs.25,000/-** under the head special diet.

20. Then on account of suffering permanent disability to the extent of 75%, the petitioner/claimant would have required the services of some attendant to look after him and help him in doing daily chores. A sum of **Rs.25,000/-** is awarded to the petitioner on that count.

21. The total compensation comes out to Rs.14,79,200/-.

22. The Tribunal has awarded compensation of Rs.12,82,100/-.

23. In this way, the enhanced amount comes out to Rs.1,97,100/- (14,79,200 – 12,82,100). The amount is round of to Rs.2,00,000/-. The claimant would be entitled to get interest @ 7.5% per annum from the date of filing of the claim petition till actual realization of the amount. The other terms and conditions given in the relief clause shall apply to the enhanced amount as well.

24. With such modification, the appeal is allowed partly with

costs.

Since the main appeal stands partly allowed, the miscellaneous application(s), if any, stand disposed of accordingly.

2.2.2023

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No