

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO-1190-2017 (O&M)

Reserved on 5.7.2023

Date of Decision: 6.10.2023

Monajil

....Appellant

VERSUS

Gurpreet Singh and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by : Mr. Rajan Gandhi, Advocate,
for the appellant.

Mr. Vinod Gupta, Advocate,
for respondent No.3.

KARAMJIT SINGH, J.

The appellant-claimant being aggrieved by award dated 5.7.2016 passed by Motor Accident Claims Tribunal, Mohali (in short, “the Tribunal”), has filed the present appeal.

2. The facts leading to the present appeal in nutshell are as under :
; that on 17.5.2015 at about 2:00 p.m., the appellant was travelling on a motorcycle No.CH01-AF-3952 as a pillion rider and the motor cycle was driven by Mohd. Najrudin (since deceased). In the meantime, a Tata Safari No.PB65-F-4243 driven by respondent No.1-Gurpreet Singh in a rash and negligent manner, came from behind and struck against the motorcycle of the appellant, as a result of which, both the claimant as well as Mohd. Najrudin sustained injuries and they were taken to Civil Hospital, Sohana for their medical treatment. The appellant remained admitted in the said hospital from 17.5.2015 to 25.5.2015 on account of multiple grievous injuries suffered by him which also included fracture of right leg. The

offending Tata Safari was owned by respondent No.2 and was insured with respondent No.3; that at the time of the accident, the appellant was 18 years of age and was running a milk diary and also used to do labour and from both these avocations, his monthly income was ₹ 5,000/- and ₹ 10,000/- respectively; that the appellant incurred expenditure of ₹ 3 lakh on his medical treatment and plates were also inserted in his right leg; that on account of the said injuries, the appellant suffered loss of earning as well as enjoyment of life. The appellant also suffered pain and suffering and his marriage prospects are also diminished.

3. The claim petition was contested by the respondents. Respondents No.1 and 2 filed joint written statement wherein the factum of accident was denied along with other averments of the claim petition.

4. Respondent No.3-insurance company filed separate reply raising preliminary objections that the driver of the offending vehicle was not having valid and effective driving licence at the time of the alleged accident and that the owner of the offending vehicle was not having valid registration certificate and the insurance policy. On merits, it was denied that Tata Safari No.PB65-F-4243 was involved in any accident as alleged by the appellant.

5. On the pleadings of the parties, the following issues were framed : -

1. Whether Monajil claimant received injuries in a road side accident caused by respondent no.1 while driving Tata Safari No.PB65-F-4243 in a rash and negligent manner? OPC.
2. Whether the claim petition is not maintainable?

OPR.

3. Whether the claimant is entitled to receive compensation as prayed for, if so to what extent and from whom? OPC.
4. Whether respondent No.1 being driver of the above said vehicle was not holding valid and effective driving licence, route permit at the time of accident? OPR-3.
5. Whether the respondent no.2 had committed breach of terms and conditions of the insurance policy, if so, its effect? OPR-3.
6. Relief.

6. The appellant himself appeared in the witness box as PW1 and tendered his affidavit as Ex.PW1/A along with documents P1 to P14. He also examined PW2-Dr. Umang Verma who proved medical treatment record Ex.P2, P3, P15 to P17 and medical bills Ex.P4 to P14.

7. Counsel for respondents No.1 and 2 tendered into evidence copy of driving licence of respondent No.1 as Ex.R1, copy of registration certificate of Tata Safari Ex.R2 and copy of insurance policy Ex.R3. Counsel for respondent No.3 tendered into evidence insurance policy Ex.R4.

8. After hearing counsel for the parties, the Tribunal decided all the issues in favour of the claimant and against the respondents and while treating the claimant to be a labourer, passed award of ₹ 1,22,987/- in favour of the claimant and against the respondents and the claimant was

also held entitled to interest @ 6% per annum from the date of filing of the

claim petition till its realization. Detail of the award is as follows : -

(i)	Expenditure incurred on treatment on the basis of bills and receipts coming on record	₹ 72,987/-
(ii)	Special diet and extra nourishment	₹ 15,000/-
(iii)	Pain and suffering	₹ 20,000/-
(iv)	Attendant charges	₹ 15,000/-
	Total	₹ 1,22,987/-

The appellant being not satisfied, has filed the present appeal which is being contested by respondent No.3-insurance company.

9. Counsel for the appellant, while assailing the impugned award, has submitted that the claimant suffered multiple grievous injuries at the time of the accident but the Tribunal has not taken into consideration the following facts : -

- (a) Loss of earning/income
- (b) Loss of enjoyment of life
- (c) Loss of prospects of marriage as the appellant was just 18 years of age.

10. It has been further submitted by the counsel for the appellant that the compensation awarded under the head of pain and sufferings is just ₹ 20,000/- which requires to be enhanced and even transportation expenses are not awarded by the Tribunal. Counsel for the appellant further submits that the monthly income of the injured was also assessed on lower side as a labourer while it is the specific plea of the appellant that his monthly income was ₹ 15,000/- as he was running a diary farm and also used to do labour.

11. Counsel appearing on behalf of respondent No.3 while supporting the impugned award submits that in the instant case, no physical disability was suffered by the appellant and thus, the appellant is not entitled to get compensation under the heads of loss of earning, loss of enjoyment of life and loss of marriage prospects. Counsel for respondent No.3 has further contended that award of ₹ 1,22,987/- passed by the learned Tribunal is just and reasonable and does not require any enhancement.

12. I have considered the submissions made by the counsel for the parties.

13. The medical bills which were produced on record by the claimants-appellants were worth ₹ 72,987/-. The said actual medical expenses are covered in the impugned award.

14. It is evident that the appellant suffered injuries in a motor vehicle accident and was taken to the hospital where he was provided medical treatment and the medical treatment record Ex.P2 and Ex.P3 was proved by PW2-Dr.Umang Verma. As per said medical treatment record, the claimant remained admitted in the hospital from 17.5.2015 and undergone CRIF with IMIL Nailing under SA on the same very day and he was treated with IV Fluid, IV Antibiotics, Analgesics and other supportive treatment and was discharged from the hospital on 25.5.2015. From the perusal of the above said medical record, it is evident that the claimant suffered fracture of right leg for which he was treated in a hospital. In these circumstances, this Court is of the view that the appellant is entitled to get compensation worth ₹ 25,000/- for pain and sufferings which was assessed as ₹ 20,000/- by the learned Tribunal.

15. Admittedly, there is nothing on record to show that the

appellant suffered any permanent or temporary physical disability. The appellant also failed to prove that his monthly income was ₹ 15,000/-. In the given circumstances, the learned Tribunal rightly considered the appellant as a labourer. So, the monthly income of the appellant is to be taken as ₹ 8,000/-. It is evident that the appellant remained admitted in the hospital from 17.5.2015 to 25.5.2015. It could also be easily inferred that even after discharge from the hospital, the appellant was unable to do the manual labour for a period of another 2 to 3 months and in this manner, he suffered financial loss of ₹ 25,000/-. This Court is of the view that apart from this, the appellant is also entitled to get transportation charges worth ₹ 7000/- as even after his discharge from the hospital, he kept on visiting the hospital for follow up treatment.

16. In the present case, as the appellant did not suffer any permanent or temporary disability, he is not entitled to get any compensation under the head of loss of enjoyment of life and loss of prospects of marriage. So, the total amount of compensation in this case comes out to be ₹ 1,59,987/- and accordingly, the appellant is entitled to get ₹ 37,000/- (₹ 1,59,987 – ₹ 1,22,987 already awarded) as enhanced compensation along with interest at the same rate as has been awarded by the learned Tribunal, from the date of filing the claim petition till its realization, which is to be paid by respondent No.3 insurance company

17. The appeal stands allowed in the aforesaid terms.

(KARAMJIT SINGH)
JUDGE

October 6, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No