

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

FAO No. 164 of 2017 (O&M)

DATE OF DECISION :- February 16, 2023

Murslina @ Mursalim

...Appellant

Versus

Shivam and others

...Respondents

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

Present:- Ms. Ekta Thakur, Advocate for the appellant.

Mr. Rajneesh Malhotra, Advocate for respondent No. 3.

Briefly stated the facts of the case are that on account of suffering injuries in a motor vehicular accident, petitioner claimant Murslina @ Mursalim son of Mehar Hussan, aged 47 years had brought a claim petition against respondents Shivam, driver, Gurdeep Singh, owner and Tata AIG Insurance Company Limited, Chandigarh, insurer of Tata Magic bearing temporary number CH-45(T)-4693 which had caused accident (hereinafter referred to as the offending vehicle).

After contest, the claim petition was accepted by Motor Accident Claims Tribunal, Chandigarh and compensation of **Rs. 2,06,605/-** with interest at the rate of 7.5% per annum from the date

of filing of claim petition till actual realization was awarded to the petitioners claimants. It was directed that the compensation amount shall be paid by respondents No. 1 and 2 jointly and severally, however, respondent No. 2 Insurance Company shall pay the amount to the claimants at the first instance but shall have right to recover the same from respondents No. 1 and 2 for the reason that no valid permit had been produced on record thereby resulting in violation of terms and conditions of the insurance policy giving rise to the inference that the vehicle was on road without a valid permit.

Feeling aggrieved with the amount of compensation awarded by Motor Accident Claims Tribunal, Chandigarh, petitioner claimant has approached this Court by way of filing an appeal, notice of which as given to the respondents. Only respondent No. 3 Insurance Company has come forward to offer a contest whereas other respondents No. 2 and 3 did not appear despite service and have been proceeded against ex-parte.

I have heard learned counsel for the appellants claimants and learned counsel for the Insurance Company besides going through the record.

I find that the compensation awarded to the appellant is certainly on the lower side and calls for enhancement. The Motor Accident Claims Tribunal, Chandigarh has not awarded compensation to the appellant claimant under various conventional Heads and the compensation awarded under most of the Heads is on lower side.

Although, I do not find any reason to interfere with the compensation awarded to the extent of Rs.93,800/- under the Head loss of future income due to disability as Rs.20,000/- on account of disability respectively because if it is seen that the Tribunal has observed that the claimant injured has suffered 10% functional disability, with his monthly income taken to be Rs.6,000/- and age to be 45 years, adopting multiplier of 14 roughly this amount is worked out. However, under the Head medical bills the amount awarded is Rs.36,305/-. Keeping in view the nature and extent of injuries suffered by the petitioner claimant and the treatment undertaken by him as well as the period of treatment that amount is enhanced to Rs.75,000/- since it is not possible to keep account of each and every penny spent on medical treatment by preserving the receipts/bills for purchase of medicines etc.

Similarly, the Tribunal has awarded a sum of Rs.20,000/- to petitioner claimant under the Head pain and suffering, which is quite inadequate and the amount is enhanced to Rs.75,000/-. Under the Head health and diet a sum of Rs.20,000/- has been awarded which needs to be increased and same is enhanced to Rs.40,000/-. Under the Head transportation expenses a meager amount of Rs.1500/- has been allowed which is increased to Rs.30,000/-. The Tribunal has awarded a sum of Rs.15,000/- to the petitioner claimant as attendant charges which amount is quite low. Keeping in view the fact that he would be requiring the assistance of attendant for his movements and travelling and other daily work, the Tribunal has not awarded any amount to the

petitioner claimant under Head loss of amenities and loss of expectation of life on account of suffering injuries in the accident. A sum of Rs.15,000/- each is awarded to him under those Heads. Thus the total compensation to make it round figure is worked out to Rs.4.6 lakhs. The petitioner claimant shall be entitled to recover this amount with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization. The liability to pay this amount being joint and several of respondents No. 1 and 2. Of course respondent No. 3 Insurance Company would make the payment to petitioner claimant at the first instance and then it may recover the said amount from respondents No. 1 and 2 as has been directed by Motor Accident Claims Tribunal, Chandigarh in the original Award.

Accordingly, with such modification, the appeal is allowed with costs throughout.

(H.S. MADAN)
JUDGE

February 16, 2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No