

2025:PHHC:003547



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

237

FAO-945-2018 (O&M)

Date of Decision : 13.01.2025

RAJBIR

.... Appellant

VERSUS

GIANENDER SINGH AND ORS.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjeev Patiyal, Advocate for the appellant.

Mr. Amit Kundra, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant aggrieved by the quantum of compensation awarded vide impugned award dated 31.03.2017 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') on account of the injuries suffered by him in a motor vehicular accident.

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. The Tribunal, vide the impugned award, had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Compensation on account of expenses on medical treatment	₹1,18,586
2.	Compensation on account of loss of earnings during the period of treatment/recovery	₹48,600
3.	Compensation for attendant charges, transportation and special diet	₹30,000
4.	Compensation on account of pain and suffering	₹20,000
	Total	₹2,17,186
	Interest	@9% per annum

4. Learned counsel for the claimant-appellant would contend that the compensation awarded by the Tribunal under the head attendant charges and on account of pain and sufferings is on the lower side inasmuch as the Tribunal has not specified any amount as regards the attendant charges and only ₹20,000 have been awarded under the head pain and sufferings which is a very meagre amount keeping in view the fact that due to the accident the claimant-appellant also underwent a surgery and suffered a lot of pain and agony. He prays for enhancement of the compensation under the said heads.

5. *Per contra*, learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

6. Heard.

7. In the present case learned counsel for the claimant-appellant has not challenged the amount of compensation awarded by the Tribunal under the expenses of medical treatment, loss of earning, transportation and

special diet inasmuch as, admittedly, there is nothing on record to determine the disability of the claimant-appellant. Learned counsel for the claimant-appellant has only laid his challenge to the compensation awarded by the Tribunal as regards the head attendant charges and on account of pain and sufferings undergone by the claimant-appellant.

8. In order to prove his injuries the claimant-appellant had examined Dr. Naresh Kaushal from Tagore Hospital Karnal as PW-4. This witness had testified that the claimant-appellant was admitted in their hospital on 25.07.2014 with a history of a road side accident and with infection of stitched wounds and necrosis of his right leg. He further testified that the claimant-appellant was put on antibiotics and painkillers and was operated upon on 06.08.2014 when his wound was cleaned and dead tissues were removed in preparation of skin grafting of the leg. This witness further stated that the claimant-appellant was diabetic and he was again admitted on 15.08.2014 for skin grafting of his leg wound after control of diabetes and he was finally discharged on 28.08.2014. He was further advised bed rest for five weeks upto 01.10.2014. Thus, as per the testimony of PW-4 Dr. Naresh Kaushal, the claimant-appellant remained admitted in their hospital since 25.07.2014 to 28.08.2014 and was further advised bed rest upto 01.10.2014 i.e. about two months and six days. Hence the claimant-appellant is entitled for attendant charges for two and a half months as per the minimum wage i.e. ₹5,650 per month prevalent at the time of the accident.

9. Further, the Tribunal granted only ₹20,000 on account of the pain and sufferings which, as per the opinion of this Court, is on the lower

side keeping in view the above testimony of PW-4 Dr. Naresh Kaushal and the fact that the claimant-appellant had undergone surgery for his skin grafting in the wound on his leg and thus for that purpose he must have undergone a lot of pain and agony. Accordingly, the amount of ₹20,000 awarded by the Tribunal under the head pain and suffering is enhanced to ₹1,50,000.

10. So far as the remaining compensation awarded by the Tribunal under the head expenses on medical treatment, loss of earning, transportation and special diet is concerned, the same is maintained. The reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Medical expenses	₹1,18,586
2.	Loss of earnings during the period of treatment	₹48,600
3.	Attendant charges @ ₹5,650 x 2.5	₹14,125
4.	Transportation and special diet	₹30,000
5.	Pain and suffering	₹1,50,000
	Total	₹3,61,311

11. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% per annum from the date of filing of the claim petition till the realization of the entire amount. Since there is no challenge to the recovery rights, as awarded by the Tribunal, the same are maintained.

12. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

13.01.2025

Aman Jain

NOTE:

(ALKA SARIN)

JUDGE

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No