

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****223****FAO-1140-2018(O&M)****Date of decision: 29.04.2025****Rajesh Kumar****...Appellant(s)****Vs.****Dalbir Singh @ Ashish & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Jasleen Kaur, Advocate for
Mr. Sandeep Singh Rana, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. R.N. Singal, Advocate
for respondent No.3.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.1,72,305/- awarded by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as "the Tribunal"), vide Award dated 01.07.2017 passed in Claim Petition No.52 dated 22.01.2016 filed by the appellant under Sections 166 and 140 of the Motor Vehicles Act (hereinafter referred to as "the Act").

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that the appellant/injured-claimant had suffered injuries in a



motor vehicular accident that took place on 12.10.2015 due to the rash and negligent driving of Innova car bearing registration No.DL-4CAE-4041 (hereinafter referred to as “the offending vehicle”) by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3. The above-said compensation was granted along with interest @ 9% per annum. Respondents were held jointly and severally liable to pay the same. Even FIR No.333 dated 14.10.2015 (Ex.PW4/E) was registered against respondent No.1 under Sections 279, 337 and 338 IPC at Police Station Butana.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that nothing has been granted under the head of loss of income to the appellant for the period of treatment of the appellant. Nothing has been granted towards cost of transportation. Even no attendant charges have been awarded despite the fact that the appellant had remained bedridden during hospitalisation. Even after discharge from hospital and during recuperation, he was totally dependent upon attendant for his day-to-day work. Further, only a meagre amount of Rs.25,000/- has been awarded for pain and suffering. It is accordingly prayed that the compensation be enhanced.

4. The aforesaid submissions of the appellant are vehemently opposed by learned counsel for respondent No.3/Insurance Company who submits that the impugned Award is just and fair and legal,



and therefore, requires no modification. Learned counsel accordingly prays for dismissal of the present appeal.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel for the parties and perused the case file in great detail.

7. Perusal of record of the case shows that it is not denied that in the accident in question, the appellant had suffered fracture of both legs besides other multiple serious and grievous injuries. The appellant had undergone treatment at Shri Hari Hospital, Karnal where a rod was also inserted in his right leg. By way of proof the appellant and produced voluminous documentary evidence in the form of his discharge summary (Ex.PW3/1); medical bills (Ex.PW3/2 to Ex.PW3/13); copy of MLR (Ex.PW4/C); Disability Certificate (Ex.P1). Besides this, the appellant had produced various other medical bills and receipts. Ex.PW3/3 to Ex.PW3/9, Ex.PW3/11, Ex.P2 to Ex.P53, Ex.P55 to Ex.P57 and Ex.P67 to Ex.P73 are the bills for Rs.67,305/- which he spent on medicines and medical tests. The appellant had also got examined Dr. Tarun Goel/PW3 who had deposed that the appellant was admitted in his hospital on 13.10.2015 and was discharged on 19.10.2015. Operation was performed on the appellant for which Rs.60,000/- was charged vide bill/receipt (Ex.PW3/2). As such, it was proved that the appellant had spent Rs.1,27,305/- on his medical treatment.



8. Disability Certificate (Ex.P1) was proved from the evidence of PW7/Sheela Rani, Clerk from the office of Civil Surgeon, Panipat. As per the Disability Certificate, the appellant had suffered 20% permanent disability qua a particular limb. Accordingly, the learned Tribunal had assessed disability of the appellant towards whole body as 10%; and had granted Rs.20,000/- (Rs.2,000/- x 10) towards permanent disability. Learned Tribunal further granted Rs.25,000/- against pain and suffering. Thus, granting total compensation of Rs.1,72,305/-.

9. It was the pleaded case of the appellant that at the time of accident, he was 32 years old and working as a skilled labourer besides running a milk dairy and earning Rs.30,000/- per month. However, due to the accident, he had become bedridden and was unable to do any work. It is nowhere denied that the accident in question, the appellant had suffered fracture of both legs and rod was inserted in his right leg. From the above facts, it is clear that nothing has been awarded to the appellant towards loss of income; attendant charges, special diet, transportation charges; and even multiplier has not been applied.

10. In view of the above, present appeal is **allowed**, and compensation awarded to the appellant is re-assessed as follows: -

Loss of income on account of functional disability:

Income –Rs.7,600/- (minimum wages at relevant time)

Multiplier – Rs.7,600/- x 16 x 12 = Rs.14,59,200/-

10% functional disability = Rs.1,45,920/- loss of income;



Future treatment – Rs.50,000/-;

Loss of income during treatment – Rs.15,200/- (2 months' income) (Rs.7,600/- x 2);

Attendant charges – Rs.1 lakh;

Special diet – Rs.20,000/-;

Transportation charges – Rs.20,000/-;

Total – Rs.3,51,120/-

11. Present appeal stands disposed of in the above terms.

12. Pending application(s) if any also stand(s) disposed of.

29.04.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No