

(2013) 07 P&H CK 0824

High Court Of Punjab And Haryana At Chandigarh**Case No:** F.A.O. No. 4208 of 2011 O and M

Bhola Singh

APPELLANT

Vs

Deepak Sharma and Another

RESPONDENT

Date of Decision: July 31, 2013**Hon'ble Judges:** Vijender Singh Malik, J**Bench:** Single Bench**Advocate:** Dheeraj Narula, for the Appellant;**Final Decision:** Allowed

Judgement

Vijender Singh Malik, J.

This is claimant's appeal for enhancement of compensation awarded to him by learned Motor Accidents Claims Tribunal, [Fast Track Court], Sirsa (for short, "the Tribunal") vide award dated 4.1.2011 in a sum of Rs. 1,03,069/- with interest at the rate of 9% from the date of filing of the claim petition till the date of realization thereof, for the injuries suffered by him in a roadside accident that took place on 1.2.2009. Bhola Singh was going on 1.2.2009 at about 4.00 PM on his scooter bearing registration No. HR-24C-6356. He was hit by an Alto car bearing registration No. HR-24J-5874 driven by respondent No. 1 in a rash and negligent manner. After hitting the scooter of the claimant, the Alto car had struck against a tree. The claimant was taken to General Hospital, Sirsa. He was an agriculturist having 1-1/2 acres of land and he used to cultivate other land by taking the same on lease and was earning more than Rs. 10,000/- per month.

2. The respondents have controverted the averments of the claim petition. They have denied the accident to have occurred in the manner alleged by the claimant. The claimant is also denied to be entitled to compensation in a sum of 5.00 lacs.

3. Learned Tribunal has applied the multiplier system to assess compensation in the name of loss of future income on account of the disability. He has assessed a sum of Rs. 72,576/- in this regard. He has also assessed a sum of Rs. 20,493/- for the

expenses incurred in the treatment. For the pain and suffering, special diet and hospitalization, learned Tribunal has assessed a sum of Rs. 10,000/- and, thus, awarded a sum of Rs. 1,03,069/- as compensation in favour of the claimant.

4. Learned counsel for the appellant has contended that the income of the claimant is taken by the Tribunal at Rs. 3,600/- per month. According to him, this amount has been taken on a lower side. He has submitted that the claimant was doing agricultural work on his own land and on the land taken by him on lease and was having the income of Rs. 10,000/- per month. He has further submitted that learned Tribunal has not awarded a single penny in the name of expenses incurred in the treatment without obtaining bills. He has further submitted that a sum of Rs. 10,000/- for pain and suffering, special diet and hospitalization is also on lower side. According to him, loss of income during treatment during which he did not work at all and loss of future enjoyment of life as well as expenses on attendant and transportation charges are also not given by the Tribunal.

5. In this case, notice of motion was ordered to be issued on 16.1.2012. Service upon respondent No. 1 was dispensed with on 4.4.2012 because no recovery rights had been given to the insurance company. However, Mr. Sandeep Suri, Advocate appeared for the insurance company, i.e. Respondent No. 2. So service was complete. None appeared for respondent No. 2 on 2.11.2012 and 12.2.2013 as also today. In these circumstances, I proceed ex parte against respondent No. 2 and have heard learned counsel for the appellant only.

6. Nothing had been brought on record to prove that the appellant owned any land or was cultivating some land on lease. He could be taken as an unskilled labourer and so his income taken at Rs. 3,600/- per month cannot be faulted. The compensation has, therefore, been rightly assessed for the disability at Rs. 72,576/- which could at the most be rounded off to Rs. 73,000/-.

7. The bills were however, in a sum of Rs. 20,493/-. It should not have been lost sight of that some amount is spent in such cases without obtaining bills and, therefore, a sum of Rs. 22,000/- would adequately compensate the claimant for the expenses incurred on his treatment.

8. The compensation under other heads should have been separately assessed. A sum of Rs. 10,000/- would be adequate compensation for pain and suffering and a sum of Rs. 10,000/- would be the just and proper compensation for attendant and transportation charges. The claimant-appellant is also entitled to compensation for loss of income during his treatment which I assess at Rs. 10,000/- and he is entitled to loss of future enjoyment of life which I further assess at Rs. 10,000/-. In this way, the appellant-claimant is found to be entitled to Rs. 1,35,000/- as compensation for the injuries suffered by him in the aforesaid accident. Consequently, the appeal succeeds and is allowed enhancing the compensation from Rs. 1,03,069/- to Rs. 1,35,000/- which shall be payable to the appellant by the respondents with interest

and in the manner as allowed by learned Tribunal in the impugned award.