

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

**XOBJC No.159-CII of 2014 in/and
FAO No.1447 of 1991**

Date of decision: 28th January, 2015

Rajashthan State Road Transport Corporation

... Appellant

Versus

Anil Chatterji and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Anil Kumar Gahlawat, Advocate
for the appellant.

Mr. A.P. Bhandari, Advocate
for the cross-objector/claimant/respondent No.1.

None for remaining respondents.

FATEH DEEP SINGH, J.

The above detailed two matters, being a first appeal by the respondent Rajashthan State Road Transport Corporation and cross-objections by the claimant seeking enhancement of compensation have come up before this Court against the impugned

Award dated 30.11.1990 passed by the learned Motor Accident Claims Tribunal, Gurgaon.

Not much evidence is available for better appreciation of the case since original record stood destroyed in the fire. From the arguments addressed by Mr. Anil Kumar Gahlawat, Advocate for the appellant and Mr. A.P. Bhandari, Advocate representing the cross-objector/claimant/respondent No.1, it is well elicited and proved that on 30.07.1988 claimant who is aged around 25 years boarded a bus bearing registration No.RNP-2426 of M/s Rajashthan State Road Transport Corporation from New Delhi and at a little distance from Dharamshala, the bus due to rash and negligent driving of its driver hit a three-wheeler bearing No.DLB-9708 going ahead of the bus resulting in injuries to the claimant and who has preferred this claim petition seeking compensation.

The findings of learned Tribunal as to the manner of the accident by way of issue No.1 have attained finality as the same were never challenged by any of the respondents and the only subject matter of challenge before this Court by the two sides is the very quantum of compensation. The learned Tribunal has awarded a sum of ₹30,000 as compensation. It is proved on the record that the claimant at the time of the accident was earning ₹1,005 per month in a private undertaking at Faridabad and the evidence comprising of depositions of own testimony of the claimant Anil Chatterji as PW2 and Dr.Suresh Arora PW3 Medical Officer, B.K. Hospital Faridabad who has proved his disability by way of disability certificate Ex.PW/1

to be 10% on account of compound fracture of left tibia bone and there is proven hospitalization for 44 days though the claimant has claimed that he remained out on leave for a period of 11 months due to this fracture and the learned Tribunal as is apparent from the impugned Award has failed to consider each and every aspect of the expenses incurred on the loss suffered on account of these injuries. Thus, it needs to be considered that in such an eventuality the claimant must have remained under medical care, hospitalization and on bed rest for a period of at least six months which a fracture normally takes to heal and must have been denied salary for his leave period besides other expenses and in view of ratio laid down in **‘R.D.Hattangadi v. Pest Control (India) Private Limited’** 1995 (2) PLR 298 SC, the claimant is certainly entitled to compensation under the following heads:

(A) Pecuniary Compensation

(i)	Compensation assessed on account of loss of monthly salaries during treatment/rest	₹6,000/-
(ii)	Compensation assessed on account of loss of earnings due to disability (₹21,600 rounded off to ₹22,000)	₹22,000/-
(iii)	Compensation assessed on account of services of attendant, special diet and conveyance	₹6,000/-

(B) Non-Pecuniary Compensation

(i)	Compensation assessed on account of physical pain, mental agony and sense of wrong	₹7,000/-
(ii)	Compensation assessed on account of loss of beauty/pleasures of life	₹10,000/-

Total	₹51,000/-
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Therefore, total compensation comes to ₹51,000 (rupees fifty one thousand) whereas the learned Tribunal has under-calculated the amount of compensation.

Besides this, the claimant is also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed.

Learned counsel for the appellant/corporation Mr. Anil Kumar Gahlawat could not controvert how the amount of compensation was on the higher side and rather is just and fair commensurate with the apparent loss suffered by the claimant as has been argued by Mr.A.P. Bhandari on behalf of the cross-objector/claimant/respondent No.1.

In the light of these discussions, the impugned Award being certainly on the lower side is modified by way of acceptance of the cross-objections filed by the claimant/respondent in those terms, whereas the appeal being hopelessly without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 28, 2015
rps