

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

FAO No.2493 of 1995

Date of decision: 28th January, 2015

Jeet Ram Khokhar

... Appellant

Versus

State of Haryana 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. Kulvir Narwal, Advocate
for the appellant.

Mr. D.R. Singla, Dy. Advocate General, Haryana
for respondents No.1 to 3.

None for respondent No.4.

Mr. M.P.S. Mann, Advocate
for respondents No. 5.

FATEH DEEP SINGH, J.

The appellant/claimant Jeet Ram Khokhar before this Court is impugning a consolidated Award dated 21.08.1995 of learned Motor Accident Claims Tribunal, Rohtak and is seeking enhancement of compensation.

On account of destruction of records in fire not much is available before this Court to appreciate the things.

After hearing the arguments of Mr. Kulvir Narwal, Advocate for the claimant/appellant; Mr. D.R. Singla, Dy. Advocate General, Haryana representing respondents No.1 to 3 and Mr. M.P.S. Mann, Advocate on behalf of respondents No. 5.

The findings as to the manner of accident have never been put to challenge which is by way of issue No.1 whereby it has been held by the learned Tribunal that the accident leading to injuries to the present claimant/appellant and others was on account of rash and negligent driving of the respondent/driver of offending bus bearing registration No.HR-10-4363. The established case as has been argued on behalf of the two sides reflects that the claimant/appellant has received fracture of right patella, left radius/ulna and nasal bone and at the relevant time he was working as Principal in Government Senior Secondary School and according to the salary certificate Ex.PJ his salary is proved to be ₹6,220 per month.

The learned Tribunal as per the evidence has rightly concluded that the claimant has suffered disability of 45% and it has been rightly contended on behalf of the respondents that it could not be taken to be the whole body disability and the deposition of Dr.S.K. Moda PW1 has brought about this fact. The learned Tribunal has grossly erred by awarding a lump sum compensation of ₹50,000

without looking into the evidence and the claim of the claimant. The contention on behalf of the respondents that being a Government official the claimant is entitled to medical reimbursement, certainly cannot be controverted on behalf of the appellant. The learned Tribunal ought to have considered each and every aspect of the matter which needs to be considered in awarding compensation for such an injury. On account of this fracture, it needs to be considered that the claimant must have been hospitalized/availed of bet rest for a minimum period of six months and there must be deduction in his salary for the leave period as per rules besides sufferings on account of pleasures of life, loss of beauty and similar other factors and which have never been taken into account by the learned Tribunal though it is acceptable that there is no evidence regarding loss of seniority to the claimant or any such service disadvantage and there are no proven expenses and the own deposition of the claimant as PW3 shows that he has spent ₹66,000 on his treatment out of which he got reimbursement of ₹13,000 and considering all these aspects the claimant in view of the ratio laid down in '**R.D.Hattangadi v. Pest Control (India) Private Limited**' 1995 (2) PLR 298 SC, is certainly entitled to compensation under the following heads:

(A) Pecuniary Compensation

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|------|---|-----------|
| (i) | Compensation assessed on account of medical expenses | ₹40,000/- |
| (ii) | Compensation assessed on account of loss of earnings during treatment | ₹20,000/- |

(iii)	Compensation assessed on account of loss of earnings due to physical disability	₹55,000/-
(iv)	Compensation assessed on account of services of attendant, special diet and conveyance	₹15,000/-
(B) <u>Non-Pecuniary Compensation</u>		
(i)	Compensation assessed on account of physical pain, mental agony and sense of wrong	₹15,000/-
(ii)	Compensation assessed on account of loss of beauty/pleasures of life	₹45,000/-
Total		₹1,90,000/-

Therefore, total compensation comes to ₹1,90,000 (rupees one lac ninety thousand).

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.

In the light of these discussions, the impugned Award being certainly on the lower side is modified by way of acceptance of the appeal in those terms.

(FATEH DEEP SINGH)
JUDGE

January 28, 2015

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