

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.5023 of 2006 (O & M)  
Date of Decision: *October 20, 2015*

Satpal

..... APPELLANT

*VERSUS*

Sethi @ Raj Kumar & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

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

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**PRESENT:** - Mr. Deepak Kumar Sharma, Advocate, for the appellant.

None for respondent Nos.1 and 2.

Mr. D.K. Parjapati, Advocate, for Mr. R.S. Madan, Advocate, for respondent No.3.

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**Jaspal Singh, J**

CM Nos.22246 & 22245 CII of 2006

For reasons given in the applications, delay of 12 days in refiling and 18 days in filing the appeal are condoned.

Applications are allowed.

FAO No.5023 of 2006 (O & M)

1. The injured – claimant has preferred the instant appeal against Award dated May 18, 2006 rendered by the Motor Accident Claims Tribunal, Hisar (for short, ‘Tribunal’) whereby he has been awarded a compensation to the tune of ₹ 4,80,600/- on account of injuries sustained by him in a vehicular accident.

2. Briefly stated, the facts of the case are that on April 11, 2002 around 6.00 PM, appellant – Satpal was going to his house in a Jeep bearing registration No.HR-20D-1695 being driven by respondent No.1 – Sethi @ Raj Kumar. When he was to cross the level railway crossing, a jeep having red light came from Hisar side and gave signal to him to stop his jeep, but instead of stopping his jeep, he tried to escape by driving the jeet at very high speed, in a rash and negligent manner, as a result of which, the jeep turned turtle and claimant fell down on the road and received multiple and grievous injuries including fracture on spinal chord. The injured was taken to Anant Ram Janta Hospital, Barwala.

3. The injured preferred a claim petition for grant of compensation on the ground that he suffered permanent disability to the extent of 100% and is unable to move, walk or sit. The petition was contested by the respondents by filing written statement. From the pleadings of parties, issues were framed and parties led their evidence.

4. After hearing learned counsel for the parties and perusing the record available on file, the Tribunal awarded compensation to the claimant, as detailed above, vide impugned award dated May 18, 2006.

5. Dis-satisfied by the compensation awarded by the Tribunal, injured – claimant has approached this court for enhancement of the same.

6. While assailing the impugned award, learned counsel for the appellant – claimant has contended that the compensation awarded by the Tribunal is on lower side keeping in view the injuries sustained by him leading to 100% permanent disability. A meagre amount to the tune of ₹ 47,000/- has been awarded on account of treatment/medicines etc. His both lower limbs were crushed and multiple fractures on spinal chord resulted in paraplegia with equinus contractura both feet and ankle, resulted into 100% permanent disability of lower limbs. He remained hospitalized for 47 days in different hospitals and operated twice in Arora Hospital, Hisar. Income of the claimant has been wrongly assessed as ₹ 15,000/- per annum whereas he was employed as chowkidar in a godown at Barwala and was drawing salary ₹ 2,700/- per month. A meagre amount of ₹ 20,000/- has been awarded towards pain and mental agony. An amount of ₹ 10,000/- has been awarded towards loss of income which is inadequate. ₹ 10,000/- have been awarded towards transportation which is also insufficient. Thus, the award passed by the Tribunal deserves to be modified and compensation is liable to be enhanced.

7. Per contra, learned counsel for respondent No.3 has supported the award passed by the Tribunal by contending that just and adequate compensation has been awarded. The award passed by the

Tribunal is absolutely in consonance with evidence available and settled canons of law.

8. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and scanned the record available on file.

9. The learned Tribunal has awarded ₹ 47,000/- towards medical treatment/medicines keeping in view the medical record of the claimant as also the fact that he remained hospitalized for 47 days, which cannot be said to be inadequate. Moreover, ₹ 20,000/- have been awarded towards pain and mental agony; ₹ 10,000/- towards loss of income; and ₹ 10,000/- towards transportation. Besides, ₹ 800/- per month (₹ 9,600/- per annum) have also been awarded towards attendant charges.

10. As far as income of claimant is concerned, it has been contended by learned counsel for the appellant that he was employed as Chowkidar in a Godown at Barwala and was drawing salary of ₹ 2,700/- per month, however, his income has been assessed at ₹ 15,000/- per annum (₹ 1,250/- per month). This Court is of the considered view that the income assessed by the Tribunal is on lower side. A daily wager is also entitled to ₹ 70/- per day. So, notional income of appellant – claimant is assessed at ₹ 2,100/- per month.

11. Accordingly, the appellant – claimant shall be entitled to the enhanced compensation as under:-

| Sr. No.                   | Particulars                                                                                            | Awarded by Tribunal (₹)   | Compensation awarded by High Court (₹) |
|---------------------------|--------------------------------------------------------------------------------------------------------|---------------------------|----------------------------------------|
| 1                         | Income Assessed                                                                                        | 1250/- pm<br>(15000/- pa) | 2100 pm<br>(25200/- pa)                |
| 2                         | Attendant Charges                                                                                      | 800/- pm<br>(9600/- pa)   | 800/- pm<br>(9600/- pa)                |
| 3                         | Annual Income + Attendant Charges                                                                      | 24600/-                   | 34800/-                                |
| 4                         | Compensation on account of permanent disability & engaging attendant, after applying multiplier of 16. | 3,93,600/-                | 556800/-                               |
| 5                         | Medical Treatment/Medicines                                                                            | 47000/-                   | 47000/-                                |
| 6                         | Pain & Mental Agony                                                                                    | 20000/-                   | 20000/-                                |
| 7                         | Transportation                                                                                         | 10000/-                   | 10000/-                                |
| 8                         | Loss of Income                                                                                         | 10000/-                   | 10000/-                                |
| Total                     |                                                                                                        | 480600/-                  | 643800/-                               |
| Enhancement by High Court |                                                                                                        | 163200/-                  |                                        |

12. In the light of what has been discussed above, the appeal is partly allowed. The appellant – claimant is entitled to the enhanced compensation of ₹ 1,63,200/- (₹ 6,43,800/- - ₹ 4,80,600/-). The payment of enhanced compensation shall be paid within 45 days from the date of receipt of certified copy of this order. On failure, interest @ 6% per annum shall follow from the date of institution of the claim petition before learned Tribunal, till its actual payment.

13. No order as to costs.

October 20, 2015  
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(Jaspal Singh)  
Judge