

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

**FAO No.1243 of 2012 (O&M)
Date of Decision: October 01, 2015.**

Parveen Kumar

.....APPELLANT(s).

VERSUS

Sunil and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.S. Virk, Advocate
for the appellant (s).

Mr. Raghav Goel, Advocate
for respondents No.1 and 2.

Mr. Lalit Garg, Advocate
for respondent No.3.

SURINDER GUPTA, J.

This appeal has been filed by appellant-claimant Parveen Kumar against the award dated 10.09.2011, whereby he was awarded compensation of ₹4,92,450/- for the injuries received by him in a motor accident with vehicle Tavera bearing No.HR-36H-7834 (later referred to as the offending vehicle).

The claimant's case, in brief, is that on 13.02.2010 he was going from Ram Lal Chowk towards Red Light Chowk on his motorcycle bearing No.HR-06L-8175 when the offending vehicle came from the side of Red Light Chowk at high speed. It was being driven in a rash and negligent manner. The offending vehicle hit the motorcycle of complainant, as a result of which he fell on the road and sustained multiple grievous injuries on legs, hands and other parts of his body. He became unconscious and was shifted to Prem

Hospital, Panipat by Exemptee Assistant Sub Inspector Dharambir. The claimant was treated by Dr. Shashank PW1. He has stated that there were multiple injuries and fractures involving both fore-arms and both legs of the claimant. He was admitted in hospital on 13.02.2010 and after operation for all fractures was discharged on 28.02.2010. He was again admitted in the hospital on 05.03.2010 and discharged on 12.03.2010. The claimant was still under his treatment in OPD at the time of statement of his doctor recorded on 10.10.2011 and required further operations.

Dr. S.S. Chauhan, who was member of the Medical Board that examined the disability of the claimant and issued the certificate Ex.P129 declaring his permanent disability as 60%, has stated that the claimant had received multiple injuries with fracture both bones, bilateral legs and bilateral forearms (distal end of radius). Describing injuries of claimant noticed at the time of medical examination by the Board, he has stated as follows:-

“On further examination, the patient was found operated case of fracture both bones leg left with plating with infection with non-union with LPN plasy with operated case of fracture both bones legs right with interlocking nails with delayed union with partial stiffness of both knees with operated case of fracture and pain with both wrist joints.”

Dr. S.S. Chauhan was optimistic that the improvement of disability with passage of time with physiotherapy cannot be ruled out.

The above medical evidence states about the nature of injuries received by the complainant in the accident and his treatment part. The fact to be noted in the testimony of Dr. Shashank was that the claimant required further operations for treatment of his fractures. In October 2010 when the

claimants was examined by the Medical Board, infection with non-union of bones was observed. There was stiffness, pain in both wrist joints. This depicts that the complainant required further treatment like physiotherapy, medicines, operations as well and the Tribunal has not allowed any compensation on this count.

The appellant-claimant is a police constable. Due to the injuries, he has become permanently disabled after suffering 60% disability. Though, this disability is not physical disability to the tune of 60% but his legs and arms are involved in this disability. A police constable, who has to perform hectic duties being member of a security wing of the State, has to remain on high alert. The claimant has certainly been incapacitated due to the disability suffered by him to perform his duties as active and alert, as he could perform before the accident. While appearing as PW1, claimant has stated that now he cannot stand and walk and had to remain on medical leave from the date of accident. His promotional chances have got ruined. His statement to this effect is un rebutted. The fact to be noted is that the claimant had appeared to make statement on 11.02.2011 i.e. about one year after the accident. He was on medical leave till that day.

The Tribunal has calculated the amount of compensation awarded to the claimant as follows:-

1.	For permanent disability	: ₹2,00,000/-
2.	For pain and sufferings	: ₹50,000/-
3.	Special diet and attendant charges	: ₹10,000/-
4.	For medical bills proved on record	: ₹2,32,450/-
	Total	: ₹4,92,450/-

Learned counsel for the appellant-claimant has argued that the

Tribunal has not awarded any compensation on account of loss of promotional avenues for the claimant, future medical expenses; loss of amenities of life and the compensation allowed towards pain and sufferings; special diet and attendant expenses are also on lower side. The claimant had to take leave for more than a year on account of injuries suffered by him. Though, he could get medical leave on half pay but still, he had suffered loss on this count. All these facts have not been taken into consideration by the Tribunal while calculating the amount of compensation. While referring to the application filed by the claimant that he has spent ₹38,021.50p as expenses for the doctor fee and medicines after passing of the award, he has argued that this shows that claimant is continuously spending on his treatment and this fact may be looked into while considering the grant of compensation towards future medical expenses.

Learned counsel for the respondents have argued that the Tribunal after taking into account all the future expenses and promotional avenues, has allowed compensation of ₹2,00,000/- towards permanent disability and ₹50,000/- for pain and sufferings, which is adequate in the facts and circumstances of this case.

On perusal of the record of the Tribunal and the medical evidence, I find that this case calls for revision of the compensation as allowed by the Tribunal. The Tribunal has not looked into the fact that disability suffered by the claimant will come in his way for his future promotions, thereby causing a pecuniary loss to him. He will also suffer service disadvantages and loss of status. Though the Tribunal has allowed ₹2,00,000/- towards permanent disability but this amount cannot compensate the claimant for the loss of his

future promotional avenues. Both the doctors examined by the claimant have pointedly deposed that the claimant required future medical care including operations, physiotherapy etc. but no amount was allowed by the Tribunal towards future medical expenses.

Keeping in view all the above facts, I am of the considered opinion that the following amount is required to be added in the compensation already allowed by the Tribunal:-

- (i) Loss of promotional avenues : ₹2,00,000/-
- (ii) Future medical expenses : ₹1,00,000/-
- (iii) Loss of amenities of life : ₹1,00,000/-
- (iv) Transportation charges : ₹25,000/-
- (v) For special diet and attendant charges : ₹25,000/-
- (vi) Pecuniary loss on account of taking leave while getting treatment : ₹50,000/-

The amount of compensation to which the claimant is entitled to, is tabulated as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	For permanent disability	₹200000 (as awarded by the Tribunal)
(ii)	Pain and sufferings	₹50000(as awarded by the Tribunal)
(iii)	Special diet and attendant charges	₹25000
(iv)	Medical expenses	₹232450 (as awarded by the Tribunal)
(v)	For expenses on future medical treatment	₹100000
(vi)	For loss of promotional avenues	₹200000
(vii)	For loss of amenities of life	₹100000
(viii)	Transportation charges	₹25000
(ix)	Pecuniary loss on account of taking leave while getting treatment	₹50000
<i>Total</i>		₹982450

In view of my above discussion, this appeal is accepted. The amount of compensation awarded by the Tribunal is modified and enhanced from ₹4,92,450/- to ₹9,82,450/-. The claimant shall be entitled to the interest @ 7.5% per annum on the compensation amount as allowed by the Tribunal. The claimant shall also be entitled to the costs of this appeal. Counsel fee is assessed ₹20,000/-.

October 01, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE