

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

**FAO No.62 of 2013 (O&M)
Date of decision: 18.08.2015**

Pradeep

....Appellant

Versus

Satish Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Narender Kaajla, Advocate,
for the appellant.

None for respondent No.1.

Mr. Ashok Muthreja, DAG, Haryana,
for respondent Nos. 2 and 3.

Mr. Sandeep Suri, Advocate,
for respondent No.4.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 17.09.2012, on account of injuries received by him in a motor vehicular accident which took place on 21.01.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 21.01.2010, claimant-appellant along with Satish Kumar was waiting for a bus at New Bus Stand, Barwala. In the meantime, a bus bearing registration No. HR-56-1927 belonging to Haryana Roadways Depot, Jind, being driven by Satish Kumar-respondent No.1 came there. The same was parked for a while in the bus stand. Aforesaid Satish Kumar boarded the bus and sat inside the

same. However, when the claimant tried to board the bus, suddenly, the driver (respondent No.1) drove the same at high speed and in rash and negligent manner, as a result of which, claimant-appellant fell down from rear window of the bus and received injuries on hips and other parts of the body. Thereafter, Satish Kumar arranged a private vehicle and took the claimant to Janta Hospital, Barwala. However, due to severe pain, he was shifted to A.M.C., Hospital, Camp Chowk, Hisar, where he remained admitted till 04.02.2010. Thereafter, he was shifted to Dr. Anant Ram Janta Hospital Pvt. Ltd. Barwala, and was discharged from there on 15.02.2010. This accident was witnessed by Satish Kumar, on whose statement, FIR No.40 dated 25.01.2010, under Sections 279 and 337 IPC was registered against respondent No.1-driver. It was further pleaded that the claimant-appellant was still getting treatment as an outdoor patient from the Hospital. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of bus bearing registration No. HR-56-1927 by Satish Kumar-respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Pradeep-claimant (PW-6). Ultimately, the claim petition was accepted by the Tribunal and compensation was awarded as under:-

Pain and suffering	-	Rs.10,000/-
Permanent disability	-	Rs.18,000/-
Treatment expenses	-	Rs.1,77,200/-

Special diet - Rs.5000/-

Hence, the claimant was found entitled to a total compensation of Rs.2,10,200/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved.

The claimant-appellant is seeking enhancement of compensation on account of permanent disability. As per disability certificate (Ex.P122), the appellant had suffered 9% disability in the accident in question.

Dr. Anant Ram (PW-2) deposed that after the accident, claimant-appellant was examined and admitted at Janta Hospital, Barwala. He had further stated that patient Pardeep had been admitted with multiple injuries and history of roadside accident. He was medico legally examined by Dr. R.C. Bhutani and was referred to AMC Hospital, Hisar, where he remained admitted up to 04.02.2010. In between he was operated upon for laprotomy. Thereafter, he was admitted in Janta Hospital, Hisar on 04.02.2010 and was discharged on 15.02.2010. He was again admitted in Janta Hospital, Barwala on 23.02.2010 and was discharged on 24.02.2010. He remained admitted in hospital on a number of occasions due to urethral injury, which required repeated dilatation and which was a course of treatment. He was finally discharged on 19.11.2010. In future also, he would require repeated dilatation.

The claimant was also examined by Dr. Reena Jain, Medical

Officer, General Hospital, Hisar (PW-3), who deposed that on 03.11.2010, she along with other members of the Board had examine Pardeep son of Raghubir and found his permanent disability to the extent of 9% in relation to his pelvis and bilateral lower limbs. The original disability certificate was proved as Ex.P122, which bore her signatures as well as signatures of other members of the Board.

It was also observed by the Tribunal that the claimant-appellant had ben visiting Dr. Vivek Mehta for urinary complaints, as was evident from the hospital OPD slips, Ex.P123 and Ex.P124. As per deposition of Dr. S.S. Grewal (PW-7), the claimant was admitted in Grewal Hospital on 05.11.2011 and underwent operation of optical urethrotomy. He was discharged from the hospital on 07.11.2011 with advice to follow up. He further deposed that these cases of stricture urethra had requirement of dilation of urethra in future also.

After going through the Award passed by the Tribunal, the present is not a case where after the accident, the claimant-appellant had suffered 9% disability and thereafter, he has been living a normal life. Rather, the present is the case where he had been continuously going to hospitals for OPD treatment for dilation of urethra since the accident, which took place in the year 2010 till 07.11.2011. As per deposition of Dr. S.S. Grewal (PW-7), in a case of stricture urethra, dilation of urethra in future would also be required. At the time of accident, which took place on 21.01.2010, the age of petitioner was about 20 years. As per schedule of minimum wages, income of daily wager in the year 2010-2011 was Rs.4348/- per month. In the present case, by taking a round figure, income of claimant-appellant can be taken as Rs.4400/- per month i.e. Rs.52,800/-

per annum.

In the peculiar facts and circumstances of this case, the compensation is being reassessed as under:-

SR. No.	HEADS	CALCULATION
(i)	Annual income	Rs.4400/- x 12 = Rs.52,800/-
(ii)	50% of (i) above is added as future prospects	52,800/- + 26,400 = Rs.79,200/-
(iii)	Loss of income on account of permanent disability to the extent of 9%	Rs. 7128/-
(iv)	Compensation on account of permanent disability and loss of income after applying multiplier of 18	Rs.7128 x 18 = Rs.1,28,304/-
(v)	Treatment expenses	Rs.1,77,200/-
(vi)	Special died, transportation charges etc.	Rs.20,000/-
(vii)	Pain and sufferings	Rs.10,000/-
(xiii)	TOTAL COMPENSATION AWARDED	Rs.3,35,504/-
	Enhanced amount of compensation	Rs.3,35,504 – 2,10,200 = Rs.1,25,304/-

The enhanced amount of compensation of **Rs.1,25,304/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

18.08.2015
ajp

(RITU BAHRI)
JUDGE