

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

FAO No.1900 of 2002

Date of decision : 05.09.2016

Om Parkash Hasija

.....Appellant

Versus

Joginder Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Atul Gaur, Advocate for appellant.

Mr. Aseem Aggarwal, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by by the appellant-claimant against the award dated 03.11.2001, passed by learned Motor Accidents Claims Tribunal, Faridabad (hereinafter called the “Tribunal”) vide which the appellant-claimant has been awarded compensation to the tune of Rs.2,55,000/- on account of the injuries suffered by him in the motor vehicular accident, which took place on 17.11.1999.

2. The present appeal has been preferred by the appellant-claimant for enhancement of award of compensation.

3. I have heard learned counsel for the parties and have gone through the record carefully.

4. Initiating the arguments, learned counsel for the appellant contended that the learned Tribunal has already awarded Rs.1,00,000/- as compensation on account of 60% disability suffered by the appellant-

claimant. He contended that he was working as a Manager in Punjab National Bank, Faridabad at the time of the accident. Due to the disability suffered by him, he could not get promotion and suffered a loss of Rs.5000/- per month. He even suffered loss in pensionary benefits, but the learned Tribunal has not awarded any compensation under this head. He further contended that no compensation has been awarded to the claimant on account of loss of amenities and enjoyment of life, transportation charges, special diet and attendant charges etc. Thus, he contended that the compensation awarded by the learned Tribunal is highly inadequate.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has taken into consideration all the relevant heads while computing the compensation payable to the appellant and sufficient/just amount of compensation has been awarded under all the heads. No further enhancement will be justified.

6. I have duly considered the aforesaid contentions.

7. The certificate Ex.P4 shows that the claimant has suffered 60% disability. The learned Tribunal has awarded a lum sum of Rs.1,00,000/- on account of the disability, probably on the ground that there was no decrease in the salary of the appellant-claimant on account of permanent disability suffered by him as admitted by him in the cross-examination. But even then, in view of the percentage of the disability a sum of Rs.1,00,000/- is inadequate and same is enhanced to Rs.1,20,000/-.

8. The appellant has categorically deposed that he was posted as a Manager in Punjab National Bank, Faridabad. He could not get

promotion due to the accident which was otherwise due. He further categorically deposed that had he been promoted, he would have been benefited by Rs.5000/- per month in the salary and similarly, he would have been benefited in pension and other emoluments. Mark-B is the copy of the letter vide which he was called for interview for promotion to the post of MMG Scale-III on 25.07.2000. This assertion of the appellant that he could not get promotion due to the accident, has totally gone unchallenged in the cross-examination. The respondent-Insurance Company has not led any evidence to show that at any point of time the appellant-claimant got the promotion. The loss of promotion causes the loss of status as well as financial loss to an employee. If the appellant would have been promoted, he must have got handsome rise in his salary and status. Due to absence of his promotion, he has also suffered the loss in pensionary/retiral benefits which is a permanent loss for throughout his life. So, in my opinion the appellant-claimant shall be entitled to a sum of Rs.5,00,000/- on account of loss of promotion and consequential financial benefits.

9. The learned Tribunal has not awarded any compensation to the claimant on account of loss of amenity and enjoyment of his life. The right arm of the appellant below elbow joint has been amputated which will certainly effect the loss of amenity and enjoyment of life of the appellant-claimant permanently, so he will be further entitled to a sum of Rs.1,25,000/- on account of loss of amenity and enjoyment of life.

10. The appellant-claimant has categorically stated that he has to engage a driver for his own car at a salary of Rs.2500/- per month. He has

also to employee a servant. He has also to spend the amount on special diet. So, the claimant shall be entitled to a sum of Rs.7500/- towards transportation charges as he was under treatment at Apollo Hospital, Delhi and might have to go there for follow up treatment as well. He will also be entitled to a sum of Rs.7500/- for special diet and Rs.6000/- as attendant charges for a period of three months. In this way, the enhanced amount of compensation payable to the claimant is detailed as under:-

Sr. No.	Heads of compensation	Amount of compensation awarded by the Tribunal (<i>in rupees</i>)	Amount of compensation enhanced by this Court (<i>in rupees</i>)
1.	Medicines and treatment charges	80,000	80,000 (<i>not enhanced</i>)
2.	Pain and suffering	25,000	25,000 (<i>not enhanced</i>)
3.	60% permanent disability	1,00,000	1,20,000
4.	Loss of income	50,000	50,000 (<i>not enhanced</i>)
5.	Loss of promotion and consequential financial benefits	-	5,00,000
6.	Loss of amenity and enjoyment of life	-	1,25,000
7.	Transportation charges	-	7500
8.	Special diet	-	7500
9.	Attendant charges	-	6000
Total		2,55,000	9,21,000

11. In this way, the appellant-claimant shall be entitled to a total some of Rs.9,21,000/-.

12. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellant-claimant is enhanced to Rs.9,21,000/- from Rs.2,55,000/- as

awarded by the Tribunal. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 60 days from today, failing which the appellant-claimant shall be entitled to interest @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

05.09.2016*sunil yadav***(DARSHAN SINGH)
JUDGE****Whether speaking/reasoned : Yes / No****Whether reportable : Yes / No**