

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

FAO No.212 of 1995.

Date of Decision: 30.03.2016.

Rajbir Singh

....Appellant.

VERSUS

Narender Nath Mandal and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Man Mohan, Advocate for
Mr. Suman Jain, Advocate for the appellant.

Service of respondent No.1 dispensed with.

Mr. Shivoy Dhir, Advocate for respondents No.2 and 3.

SNEH PRASHAR, J.

By way of this appeal, appellant-Rajbir Singh seeks enhancement of compensation awarded to him by Motor Accident Claims Tribunal, Hisar (for short, “the Tribunal”) vide the award dated 01.10.1994 passed in Petition No.80 of 1992.

On 21.02.1992, appellant was traveling as a pillion rider on scooter No.HR-20/A-2755 being driven by Lal Singh Punia when they were going from Hisar towards Delhi and near the inter-section of railway over bridge, the scooter was hit by a military truck bearing registration No.86-D-67402-W (hereinafter referred to as the “offending truck”) driven by

Narender Nath Mandal (respondent No.1). Both the occupants of the scooter sustained serious and grievous injuries. They were taken to the Civil Hospital, Hisar where Lal Singh Punia succumbed to the injuries.

A First Information Report No.78 of 1992 in respect of the accident was registered against Narender Nath Mandal (respondent No.1) at Police Station City Hisar.

The petition invoking the provision of Section 166 of the Motor Vehicles Act (for short, "the Act of 1988") filed by the appellant claiming compensation on account of injuries sustained by him was partly allowed by learned Tribunal vide award dated 01.10.1994 and an amount of Rs.82,000/- was awarded as compensation to him.

Feeling unsatisfied, the appellant preferred the instant appeal for enhancement of compensation.

The submissions made by Mr. Man Mohan, learned counsel for the appellant and Mr. Shivoy Dhir, learned counsel for respondents No.2 and 3 have been heard and record perused.

Learned counsel for the appellant argued that PW12 Dr. M.R. Sapra from whom the appellant had taken treatment proved the disability certificate Ex.P12/B according to which the permanent disability suffered by the appellant was assessed as 60% on account of loss of memory and psychic disturbances. The appellant was a teacher by profession and PW12 stated that because of the permanent disability the appellant is unable to do teaching work. However, learned Tribunal awarded only an amount of Rs.20,000/- as compensation under the head of pain and suffering and loss

of enjoyment of life which is extremely less. In addition to that the appellant remained hospitalized for more than a month but no amount was awarded by learned Tribunal towards the amount spent on attendant, transportation etc.

Analyzing the statement of Dr. M.R. Sapra and the disability certificate issued by him, the findings of learned Tribunal are as under:-

“So far as the permanent disability determined by Dr. M.R. Sapra concerned it does not seem to be correct. Dr. Sapra deposed that this 60% disability was due to the loss of memory and psychich disturbances. He also deposed that Rajbir petitioner was unable to to teaching work because of that permanent disability. But the same doctor gave a certificate Ex.R-1 declaring him fit to resume his duty w.e.f. 6.7.1992. Even Narender Singh RW1 deposed that no complaint was received about the work and conduct of Rajbir Singh after he joined his duty and he was able to speak and recognize every body properly. So when Rajbir Singh after availing the medical leave was properly discharging his duty as a teacher there is no question of his suffering from disability of 60%. He is getting the same salary with regular increase in DA and increment etc after the accident. So there has been no loss in his income on account of disability, if any, suffered by him in the accident. For the loss of enjoyment on account of the slight loss of memory the amount payable to him

has already been assessed above.”

Indeed, as observed by learned Tribunal, the testimony of Dr. M.R. Sapra and the disability certificate Ex.PW12/B issued by him are totally unreliable. On one hand, the doctor specifically deposed that the appellant was unable to do teaching work because of the disability and on the other he issued certificate Ex.R-1 declaring the appellant fit to resume his duty w.e.f. 06.07.1992. It is not the case of the appellant that either he himself left the job or that because of any kind of disablement suffered by him his service was terminated by his employer. Rather, as noticed by learned Tribunal, RW1 Narender Singh, Clerk proved that the appellant was still in service and there was no complaint from him or from any person regarding discharge of duties by him. The said facts clearly indicate that no functional disability causing loss in earning capacity was suffered by the appellant.

However, it has come in evidence that due to the injuries sustained by the appellant, he remained hospitalized for about a month and 10 days. He was able to resume his duties after a period of four and half months. As such, considering the nature of injuries suffered by the appellant and the period of his hospitalization and confinement to bed, the amount of Rs.20,000/- awarded on account of pain and suffering is enhanced to Rs.40,000/-. For the period i.e. 22.02.1992 to 05.07.1992, the appellant remained on medial leave, the Tribunal has already awarded Rs.12,000/- on account of loss of income as at the relevant time the salary of the appellant was Rs.2600/- p.m. The total medical bills produced by the appellant which

were slightly more than Rs.48,000/- and adding to it expenditure on special diet an amount of Rs.50,000/- was awarded by learned Tribunal.

Needless to say during hospitalization and follow up treatment the appellant required an attendant. Even if his family members were attending on him, he must have spent a good amount of their transportation and boarding-lodging in addition to expenditure on his own transportation etc. On the said count, a further amount of Rs.20,000/- is allowed as compensation.

Accordingly, the appeal filed by the appellant is partly allowed and the award dated 01.10.1994 passed by learned Tribunal is modified. The enhanced compensation of Rs.40,000/- shall be deposited by the respondents within 45 days from the date of receipt of certified copy of this judgment failing which the appellant-claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of this order till realization.

(SNEH PRASHAR)
JUDGE

30.03.2016.

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