

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2118 of 1999 (O&M)
Date of Decision : 30.03.2016

Faquir Singh

.....Appellant

Versus

Major Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashok Jindal, Advocate
for the appellant.

Mr. Balwinder Singh, Advocate
for respondents no. 2 and 3.

Surinder Gupta, J.

This is appeal by claimant-Faquir Singh against award dated 04.02.1999 passed by the Motor Accident Claims Tribunal, Bathinda (later referred to as 'the Tribunal') seeking enhancement of compensation allowed by the Tribunal.

2. Case of claimant, in brief, is that on 21.12.1996, he was going on his donkey-cart from Baba Deep Singh Nagar, Bathinda to Dana Mandi. His *rehri* (cart) was loaded with shuttering material. His son Gurnam Singh was also going on his *rehri*. When he reached near *gali* of *Gurudwara Hazi Rattan*, bus No. PB-11-9139 (later referred to as 'the offending vehicle') came at a very high speed from behind. It was being driven by respondent no. 1-Major Singh in a rash and negligent manner. The offending vehicle hit cart of claimant who fell down and front tyre of the bus ran over and crushed his legs. Claimant was admitted in Civil Hospital where both his legs below knee were amputated. He remained admitted in the hospital upto

11.01.1997. Claimant claimed compensation of ₹6 lacs for the injuries suffered by him.

3. Respondents contested claim petition *inter alia* pleading that no accident took place with the offending vehicle. It was averred that claimant received injuries due to over-turning of his donkey-cart, which was overloaded but it was not touched by the offending vehicle.

4. On appraisal of evidence, the Tribunal recorded finding that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver (respondent no. 1).

5. While calculating amount of compensation, the Tribunal took into account that claimant had suffered 100% disability. He had also remained admitted in hospital for about 20 to 25 days. Both his legs were chopped off at the spot. The Tribunal, however, awarded compensation of ₹75,000/- in lump sum to claimant.

6. Learned counsel for the appellant has argued that the Tribunal was very conscious of the fact that claimant had suffered 100% disability due to amputation of both his legs below knee, rendering him unable to do any work. The Tribunal did not allow any compensation under the conventional heads like expenses for hospitalization, permanent disability, loss of income/future income, pain and suffering, nutritious diet, attendant and transpiration charges, future medical expenses etc. Amount of ₹75,000/- allowed as compensation is on lower side particularly when the Tribunal was satisfied that claimant

was earning an amount of ₹4500/- to ₹5000/-per month.

7. Learned counsel for respondents no. 2 and 3 has argued that there is no mathematical formula for determination of compensation. The Tribunal has taken into account all the factors like medical expenditure, expenses of hospitalization, disability etc. while awarding compensation of ₹75,000/-. The accident had taken place in the year 1996 and keeping in view the price index prevalent at that point of time, compensation awarded by the Tribunal is just and reasonable calling for no enhancement.

8. Before proceeding further, it will be relevant to take note of the observations recorded by the Tribunal in par 10, which reads as follows:-

“10. Now reverting back to the evidence led by the claimant he has deposed that both of his legs were chopped off at the spot and he remained admitted in the Hospital from (sic for) 20 to 25 days and spent about ₹50,000/- on medicines. It has also come in his statement that before the accident he was earning ₹4500/- top ₹5000/- per month and after the accident he is unable to persuaude his daily life. No suggestion was put to this witness that he did not remain admitted in the hospital and he was (sic not) earning ₹4500/- to ₹5000/- per month prior to the accident and in other words his this part of the statement stands admitted by the other side. Further not only this

his statement finds corroboration from medico-legal report copy placed on file as Ex. P-2 and from the disability certificate, Ex. P.3. Disability certificate in this case is a material document which goes to show that there was amputation of both lower limbs below the knee and there was 100% disability and further the claimant has become physically handicapped. The claimant has not produced any bill showing the expenses on medical treatment. But it is a matter of common knowledge that he must have spent on medicines and he is entitled to compensation on account of medical expenses. For pain and suffering, permanent disability and medical expenses, I am of the opinion that if a sum of ₹75,000/- is (sic if) awarded to the claimant it would meet the ends of justice. So he is held entitled to this amount from the respondents."

9. It is apparent from the above discussion that the legs of claimant below knee were amputated due to accident. He remained admitted in the hospital for 20 to 25 days. He suffered 100% disability and became physically handicapped. The question which arises for consideration is as to whether amount of compensation of ₹75,000/- as allowed by the Tribunal is just and reasonable? The answer to this will be in negative. The disability suffered by claimant has not only rendered him and his family without income but has also taken away all the amenities of life from him. The Tribunal was required to assess

compensation separately under all conventional heads. Even if no medical bills have come on file it is quite evident that claimant, whose both legs were amputated, had spent a considerable amount on his treatment. A person requires continuous medical attention and had to spend on physiotherapy, artificial limbs etc. when his both legs were amputated. During course of arguments, it is admitted that age of claimant in claim petition was mentioned as 55 years. Claimant was having a donkey-cart. Due to amputation of both his legs, the doctor has declared his disability as 100% but his functional disability was taken as 75%. Income of claimant in the year 1996 keeping in view vocation can be reasonably assessed as ₹3000/- per month. The amount of compensation to which claimant is entitled, is calculated as follows:-

Sr. No.	Heads	Calculation
(i)	Medical expenses	₹10000
(ii)	Loss of income	$₹3000 \times 75 / 100 \times 12 \times 11 = 297000$
(iii)	Pain and suffering	₹10000
(iv)	Nutritious diet	₹5000
(v)	Attendant charges	₹5000
(vi)	Transportation charges	₹3000
(vii)	Future medical expenses	₹10000
(viii)	Loss of amenities of life	₹10000
Total		₹350000

10. As a sequel of my above discussion, the appeal is accepted. Award of the Tribunal is modified and the compensation allowed to claimant is enhanced from ₹75,000/- to ₹3,50,000/-. The enhanced amount of compensation will carry

interest @ 6% per annum from the date of filing of the claim petitions till actual realization.

March 30, 2016
jk

(SURINDER GUPTA)
JUDGE