

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2203 of 1999 (O&M)
Date of Decision : 06.12.2016

Bakhshish Singh

....Appellant

Versus

Satbir Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. M.L. Saini, Advocate
for the appellant.

Mr. Sandeep Suri, Advocate
for respondent no. 3-Insurance Company.

Ms. Rajni Maurya, Advocate
for Mr. Naveen Batra, Advocate
for respondent no. 4.

None for respondents no. 5 and 6.

Surinder Gupta, J.

This is appeal by claimant-Bakhshish Singh seeking enhancement of compensation awarded to him by Motor Accident Claims Tribunal, Gurdaspur (later referred to as 'the Tribunal') for the injuries suffered by him in a motor vehicle accident with truck bearing registration no. JKU-1981 (later referred to as 'the offending vehicle'), due to its rash and negligent driving by respondent no. 2-Rajinder Singh.

2. Case of claimant, in brief, is that on 25.09.1992, he was going from Pathankot to Chandigarh by bus of Punjab Roadways bearing registration no. PB-12-A-9310. At about 07.00 a.m., when bus reached near Nangal Bhur, the offending vehicle came from opposite side and hit the bus in which claimant was travelling, as a result of which he and other

passengers of bus suffered serious injuries. Claimant was taken to Civil Hospital, Pathankot. After first-aid he was removed to R.S.D. Hospital, Shahpur Kandi, where he remained admitted from 25.09.1992 to 29.10.1992. Right shoulder and right rib of claimant got fractured as a result of which he suffered disability. He spent ₹15,000/- on his treatment and a sum of ₹5000/- or more were likely to be spent on his further treatment. He used to earn ₹2500/- per month. For the injuries and permanent disability of 30% suffered by him he claimed compensation of ₹5 lacs.

3. The Tribunal accepted the plea of claimant and awarded him compensation of ₹80,000/-, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	For 30% disability and for loss of enjoyment of life	₹50000
(ii)	Pain and suffering	₹20000
(iii)	Special diet	₹10000
<i>Total</i>		₹80000

4. The claim petition was allowed against respondents no. 1 to 3 and it was dismissed against respondents no. 4 to 6.

5. Learned counsel for the appellant has argued that Tribunal while awarding compensation has not taken note of the fact that claimant had not only suffered 30% permanent disability but also suffered loss of income during the period he remained hospitalized i.e. from 25.09.1992 to 29.10.1992. Compensation of ₹50,000/- awarded by the Tribunal for the disability is on lower side. No compensation was allowed towards attendant charges, medical expenses, loss of amenities of life, transportation

and future medical expenses.

6. Learned counsel for respondent no. 3-Insurance Company has argued that the accident took place in the year 1992 and amount of compensation as awarded by the Tribunal is just and reasonable amount keeping in view the price index prevailing at that time. The compensation awarded for pain and suffering include compensation on other pecuniary heads as well.

7. Dr. Hari Dyal, Medical Officer, Ranjit Sagar Dam Hospital while appearing as AW-1 has stated that claimant was admitted in Ranjit Sagar Dam Hospital, Jugal (Shahpur Kandi) on 25.09.1992 with fracture shaft right humerus with fracture ribs. He was operated for fracture shaft humerus on 14.10.1992 and was discharged on 29.10.1992. Regarding his disability certificate (Ex. A-3) issued by him and counter-signed by Incharge S.M.O. Ranjit Sagar Dam Hospital, he has stated that claimant needs reassessment in order to assess his disability. AW-2 Vijay Kumar has stated that claimant was working as Work Mistri in Ranjit Sagar Dam project. He proved salary certificate of claimant (Ex. A-4), which describes his salary as ₹2550/- per month at the relevant time. AW-3 Raj Kumar, chemist, who runs Ajay Medical Store, Jugal, has proved cash memos Ex. A-7 to Ex. A-9 of medicines purchased by claimant. Total bill of these cash memos amounts to ₹633/-. From the evidence led by claimant, it is proved that he remained admitted in the hospital for a period of about 35 days. He had suffered fracture injuries and a person, who suffers fracture injuries, requires six to twelve weeks for reunion of fracture. During this period he had also suffered loss of income. Though, no specific evidence in this regard has come on record but it can be very well presumed that claimant,

who was working as Work Mistri could not work at least for 3 to 4 months due to injuries suffered by him. He was not a regular employee but was working as work charged employee. Keeping in view nature of injuries, he is entitled to compensation for the loss of income for at least four months. His salary was ₹2550/- per month and total amount of compensation on this score works out to $(₹2550 \times 4) = ₹10,200/-$. Claimant remained admitted in hospital for about 35 days. During this period he required services of attendant continuously but the Tribunal has not awarded any compensation on this score. He and his family had been spending on transportation expenses during the period he remained admitted in hospital and even afterwards for follow up. A lump sum compensation of ₹5000/- is allowed towards attendant charges and ₹2000/- towards transportation expenses. The disability certificate of claimant (Ex. A-3) shows that he had not suffered any permanent disability. Doctor has rather mentioned in disability certificate that his disability is likely to recover with treatment. It appears that claimant was treated in Ranjit Sagar Dam Hospital, where he was employed, without paying any charges, as such, he is not entitled to any hospital expenses but is entitled to sum of ₹633/- spent by him on medicines. Amount of compensation awarded by the Tribunal towards disability, loss of enjoyment of life, pain and suffering and special diet call for no interference as the same is adequate.

8. In view of my above discussion, compensation to which claimant is entitled, is reassessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	For 30% disability and for loss of enjoyment of life as awarded by the Tribunal	₹50000

(ii)	Pain and suffering as awarded by the Tribunal	₹20000
(iii)	Special diet as awarded by the Tribunal.	₹10000
(iv)	Loss of income for four months @ ₹2500/- per month	₹10200
(v)	Compensation for attendant charges	₹5000
(vi)	Compensation for transportation expenses	₹2000
(vii)	Medical expenses	₹633
Total		₹97833

9. As a sequel of my discussion above, this appeal is accepted and compensation allowed to claimant is enhanced from ₹80,000/- to ₹97,833/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of claim petition till actual realization.

December 06, 2016
jk

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>