

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

**FAO-3881-2001 (O&M)
Date of decision: 30.03.2016**

Ravinder (minor)

...Appellant

Versus

Sant Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Rathore, Advocate,
for the appellant.

Mr. Ashwani Talwar, Advocate,
for respondent No.3-Insurance Company.

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JITENDRA CHAUHAN, J.

The present appeal has been filed seeking enhancement of the amount of compensation awarded by learned Motor Accidents Claims Tribunal, Rohtak, ('the Tribunal', for brevity) vide impugned award dated 14.12.2000.

Learned counsel for the appellant submits that injured-appellant was 14 years of age at the time of accident. He suffered serious head injury due to which he became totally crippled. The

extent of disability suffered by the claimant has been assessed at 100%. Therefore, learned counsel prays for enhancement of the amount of compensation under different heads.

On the other hand, the learned counsel for the respondent-Insurance Company vehemently states that the amount of compensation awarded by the learned Tribunal is just and appropriate and does not call for any interference.

I have heard the learned counsel for the parties and perused the record.

In this case, claimant-appellant Ravinder, aged about 14 years at the time of the accident, has been left mentally deranged and physically incapacitated to move and is bed ridden. The Board of Doctors, on assessment, have declared him 100% disabled. The report is proved on record as Ex.PW13/A. Dr. Subedar Singh, while appearing as PW17, deposed that injured-Ravinder was admitted at PGIMS Rohtak, for treatment of head injury on 27.02.1998 and prompt tracheotomy was conducted to save his life. It has come on record that initially, he remained hospitalized at PGIMS Rohtak for about a month and thereafter, he was treated at different hospitals such as G.B. Pant Hospital, All India Institute of Medical Sciences, Sir Ganga Ram Hospital, Guru Teg Bahadur

Hospital, New Delhi and also at a private nursing home, namely, Malabar Hospital.

Learned Tribunal, after considering the circumstances and evidence on record, has awarded an amount of Rs.2,00,000/- to the appellant, which in the considered opinion of this Court, is highly inadequate. The same is set aside and is being reassessed.

Firstly, this Court would assess compensation under the head 'loss of earning capacity'. For the said purpose, an amount of Rs.5,000/- per month is taken as notional income. The appellant was 14 years of age at the time of accident. Therefore, multiplier of 18 is applied. As the appellant suffered disability to the extent of 100%, the amount of compensation under this head would come to $\text{Rs.5,000/-} \times 12 \times 18 = \text{Rs.10,80,000/-}$.

There is evidence on record that the appellant has been rendered totally devitalised and left in a vegetative state unable to perform even routine chores, he would require an attendant throughout his life. Taking the average expenditure for an attendant at Rs.5,000/- per month and adopting the multiplier of 18, the amount of compensation under the head 'attendant charges' would come to $\text{Rs.5,000/-} \times 12 \times 18 = \text{Rs.10,80,000/-}$.

Keeping in view the nature and seat of injuries, period

of hospitalization and extent of disability suffered, an amount of Rs.1,00,000/- is awarded towards 'pain and suffering'. Another amount of Rs.1,00,000/- each is awarded under the heads 'special diet' and 'transportation'.

The appellant was a young boy of 14 years of age at the time of accident. Due to the unfortunate incident, there is a complete loss of his marriage prospects. He would also be unable to enjoy the amenities of life. Accordingly, an amount of Rs.5,00,000/- is awarded towards loss of marriage prospects and amenities of life. Further, an amount of Rs.1,00,000/- is awarded towards 'medical expenses'.

In view of the above, the claimant-appellant, is held entitled to the compensation of Rs.10,80,000/- (towards 'loss of earning capacity') + Rs.10,80,000/- (towards 'attendant charges' + 1,00,000/- (towards 'pain and suffering') + Rs.1,00,000/- (towards transportation) + Rs.1,00,000/- (towards special diet) + Rs.5,00,000/- (towards 'loss of marriage prospects and amenities of life') + Rs.1,00,000/- (towards 'medical expenses'), totalling to Rs.30,60,000/-, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, the claimant shall also be entitled to interest @ 7.5% per

annum, from the date of filing the present appeal, till its realization.

The amount of Rs.2,00,000/- awarded by the learned Tribunal is hereby set off.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

30.03.2016
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(JITENDRA CHAUHAN)
JUDGE