

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

**FAO No.2965 of 2004
Date of decision : 22.03.2016**

Inder Singh

.....Appellant

Versus

Sapun Chand and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Tapan Yadav, Advocate for appellant.

Mr. Jagjit Singh Chatrath, Advocate for
Mr. Ashwani Talwar, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 13.04.2004, passed by learned Motor Accidents Claims Tribunal, Gurgaon (hereinafter called the 'Tribunal'), vide which the compensation to the tune of Rs.4,26,927/- has been awarded to the appellant-claimant on account of injuries suffered by him in the motor vehicular accident which took place on 25.02.2001.

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

3. Learned counsel for the appellant, initiating the

arguments, contended that the claimant as a result of injuries received in this accident, has lost his left eye. He has also suffered the fracture of the nasal bone and the discharge cannot pass through his nose. Adequate amount of compensation has not been awarded by the learned Tribunal on account of the aforesaid disability. He further contended that the learned Tribunal has wrongly deducted the amount of medical reimbursement received by the claimant from his employer as the said amount was deducted from his retiral benefits.

4. On the other hand, learned counsel for the respondent-Insurance Company contended that the claimant has not suffered any permanent disability as a result of injuries suffered in this accident. There is no evidence on record to establish that the claimant has lost his left eye. The amount of medical reimbursement has also been rightly deducted from the amount of the compensation. Thus, he contended that the claimant has been awarded just compensation by the learned Tribunal.

5. I have duly considered the aforesaid contentions.

6. The learned Tribunal has awarded the compensation to the tune of Rs.4,26,927/-. The learned Tribunal has calculated the total amount of compensation to the tune of Rs.5,76,927/-. Out of that amount, Rs.1,50,000/- paid to the appellant by the employer have been deducted i.e. Rs.1,00,000/- has been deducted under mediclaim policy for purchase of medicines and Rs.50,000/- has been deducted under personal accident scheme paid to the appellant by his employer.

7. The learned Tribunal has awarded compensation of

Rs.1,50,000/- towards permanent eye/nasal disability, Rs.75,000/- towards pain and suffering, Rs.2,00,000/- towards loss of future amenities of life, Rs.1,51,927/- towards medical and treatment charges. The claimant has brought on record the certificate Ex.PB, proved by PW-11 Dr. M.S. Bajaj, Additional Professor, R.P. Centre, AIIMS, New Delhi. As per this certificate, the claimant is visually handicapped by 20%. He was also diagnosed as post traumatic phthisis with nasolacrimal duct block with telecanthus in the left eye. Under this head, the Tribunal has awarded the compensation to the tune of Rs.1,50,000/-, which is just and appropriate.

8. No compensation has been awarded to the claimant for transportation charges, attendant and special diet. The claimant has suffered serious injuries. He also underwent surgery. Besides the visual injury, he has suffered the fracture zygoma on both the sides, fracture maxilla lefort-3, fracture nasal bone, wound on the upper lip and upper sulcus. He also remained hospitalised for a considerable long period and had to attend the hospital for the follow up treatment. So, the claimant shall be entitled to Rs.20,000/- towards transportation charges, attendant and special diet.

9. The learned Tribunal has awarded Rs.2,00,000/- on account of loss of future amenities of life. In my opinion that is not the sufficient amount keeping in view the various type of injuries suffered by the claimant. From the statement of PW-3 Dr. Dhiraj Gupta, it comes out that he had squint of left eye. On his last visit, he was having mild hypo

tropia which was not correctable further with any muscle procedure. He also suffered fracture of zygoma on both the sides, fracture maxilla and fracture nasal bone. As per certificate Ex.PV he also suffered nasolacrimal duct block. All these injuries suffered by the claimant will certainly affect his enjoyment of life and amenities. So, the compensation under this head is enhanced from Rs.2,00,000/- to Rs.2,50,000/-.

10. The learned Tribunal has deducted Rs.1,50,000/- from the amount of compensation on the ground that this amount was paid to the claimant by his employer under mediclaim policy and personal accident policy but from the statement of PW-8 Satpal Singh MI Assistant in Time Office, Carrier Aircon Ltd. Gurgaon, it comes out that aforesaid amount of Rs.1,50,000/- was deducted from the retiral benefits paid to the claimant. So, the learned Tribunal was not justified in deducting this amount of Rs.1,50,000/- from the amount of compensation as the aforesaid amount has been ultimately paid by the claimant as the same has been deducted from his retiral benefit. So, the amount of compensation payable to the claimant is worked out as under:-

Sr. No.	Heads	Amount of compensation in rupees
1.	Permanent eye/nasal disability	1,50,000/-
2.	Pain and suffering	75,000/-
3.	Transportation, attendant and special diet charges	20,000/-
4.	Loss of enjoyment and amenities of life	2,50,000/-
5.	Amount spent on treatment	1,51,927/-
	Total	6,46,927/-

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.6,64,927/- from Rs.4,26,927/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

22.03.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**