

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

FAO-4516-2006 (O&M)
Date of decision: 16.05.2016

Gurjit Singh

...Appellant

Versus

Gurdial Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashwani Arora, Advocate,
for the appellant.

Mr. Rakesh Gupta, Advocate
for respondent No.2.

Mr. M. K. Dogra, Advocate
for respondent No.3.

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JITENDRA CHAUHAN, J.

The present appeal has been filed by the injured-claimant, seeking enhancement of the amount of compensation awarded by learned Motor Accidents Claims Tribunal, Chandigarh, ('the Tribunal', for brevity) vide award dated 20.04.2006.

It is contended that the appellant remained hospitalized for the period i.e. from 15.01.2004 to 03.03.2004, 22.03.2004 to

23.03.2004 and suffered permanent disability to the extent of 100%. The appellant had sustained serious injuries including head injury, fracture of right skull, right eye lid wounded, Emphyzema left side neck to jaw, 3 teeth broken. Further, the learned Tribunal wrongly applied the multiplier of 16 as the age of the appellant was 18 years at the time of accident. Nothing has been awarded towards future prospects.

On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal and stated that a just and reasonable compensation has been awarded by the learned Tribunal. Therefore, the present appeal is liable to be dismissed.

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

Firstly, this Court would assess compensation under the head 'loss of future income'. For the said purpose, an amount of Rs.5,000/- per month is taken as notional income instead of Rs.2500/- as assessed by the learned Tribunal.

There is no dispute with regard to the disability of the appellant. Therefore, keeping in view the law laid down in **Rajan Vs. Soly Sebastian and other**, 2015(3) RCR (Civil) 962 (SC), an addition of 50% is ordered in the actual income of the injured towards future

prospects. However, as the matter pertaining to the future prospects is pending adjudication before Hon'ble the Supreme Court in SLP (Civil) No.16735 of 2014, therefore, the amount of future prospects be released on furnishing of requisite indemnity bonds by the appellant.

The appellant was 18 years 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 'loss of future earning' comes to $\text{Rs.5,000/-} + 50\% \times 12 \times 18 = \text{Rs.16,20,000/-}$ as against an amount of Rs.4,80,000/-, assessed by the learned Tribunal under this head.

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.4,000/- per month and adopting the multiplier of 18, the amount of compensation under the head 'attendant charges' would come to $\text{Rs.4,000/-} \times 12 \times 18 = \text{Rs.8,64,000/-}$

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' and amount of Rs.1,00,000/- is awarded under the heads 'special diet' and

'transportation'.

The appellant was a young boy of 18 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.2,00,000/- is awarded towards loss of marriage prospects and amenities of life.

In view of the above, the claimant-appellant, is held entitled to the compensation of Rs.11,40,000/- (enhancement towards 'loss of future earning') + Rs.8,64,000/- (towards 'attendant charges') + Rs.80,000/- (enhancement towards 'pain and suffering') + Rs.80,000/- (enhancement towards transportation and special diet) + Rs.1,37,000/- (enhancement towards 'loss of marriage prospects and amenities of life'), totalling to Rs.23,01,000/-, 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.

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

16.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**