IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1936 of 2010 (O&M)
Date of Decision : 28.05.2016

Manjit Singh .....Appellant

Versus

Paramhans Mishra and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Ekta Thakur, Advocate
for the appellant.

Mr. R.N. Singal, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal filed by claimant-Manjit Singh seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (later referred to as 'the Tribunal') for the injuries suffered by him in a motor vehicle accident with car bearing registration No. DL-4CP-4307 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal is seeking of enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. Case of claimant, in brief, is that on 14.11.2005 at about 08.45 a.m., he was going in his Maruti Van No. CH-03-0745 from Chandigarh to Ambala, when his vehicle was hit by the offending vehicle. He suffered multiple fractures on the right leg and ribs. He was admitted in PGI from 14.11.2005 to 30.01.2006 and spent ₹50,000/- on his treatment. He was aged 55 years and used to earn ₹15,000/- per month and has claimed compensation of ₹10 lacs on account of disability, loss of earning, pain and agony etc.

4. The Tribunal computed compensation of ₹64,350/- awarded to

claimant as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Actual expenses	₹28350
(ii)	Pain and agony	₹6000
(iii)	Conveyance charges	₹5000
(iv)	Permanent disability	₹25000
	Total	**₹64350**

5. Learned counsel for the appellant has argued that the Tribunal while awarding compensation has to look into all the facts and circumstances that have come on record. It was proved on file that claimant, aged 55 years, was a building contractor. He remained admitted in PGI, Chandigarh from 14.11.2005 to 30.01.2006. Then he shifted to Hoshiarpur for his post operative care and treatment. There he was medically examined by board of doctors, who found that he was suffering from 40% permanent disability. The Tribunal has ignored the disability certificate on the ground that it was issued by doctors at Hoshiarpur while claimant received treatment from PGI, Chandigarh. Due to shortening of his leg by 3/4 inches, claimant is not in a position to do his job of building contractor as a building contractor has to visit the sites and go to top of the building under construction and this has badly impaired earning of his livelihood. The Tribunal has not allowed any compensation on the conventional heads like future medical expenses, attendant charges, loss of income, loss of earning capacity and loss of amenities of life etc. The compensation allowed towards conveyance charges and permanent disability is highly inadequate.

6. Learned counsel for respondent no. 3-Insurance Company has argued that the accident took place in the year 2005. The Tribunal while awarding the compensation for pain and suffering, conveyance charges and permanent disability has taken into account the price index, which was

prevailing at the relevant time. The disability certificate was rightly ignored by the Tribunal as the best authority to issue the disability certificate to claimant was team of doctors of PGI which treated him. Moreover, the disability certificate was issued in the year 2008 i.e. three years after the accident and it cannot be connected with the injuries suffered by claimant in the accident on 14.11.2005.

7. On giving a careful thought to submissions of learned counsel for parties, I find following points for consideration in this appeal:-

(i) Whether ignoring of disability certificate issued by the Medical Board, Hoshiarpur by the Tribunal was justified?

(ii) Whether the compensation awarded by the Tribunal for injuries suffered by claimant was just and reasonable?

8. Claimant examined PW-3 Dr. J.S. Dhami, who was a member of medical board which examined the appellant and issued the disability certificate (Ex. P-102). This disability certificate was issued on 19.10.2006 and the permanent disability of claimant was found to be 40%. He was recommended for reassessment and was again examined on 30.07.2008 and on examination, medical board found the same disability of 40%. Dr. Dhami has stated that it was permanent disability and patient requires attendant during treatment in such like cases and high protein diet is recommended. The disability certificate (Ex. P-102) shatters the argument of learned counsel for respondent no. 3-Insurance Company that medical board examined the claimant three years after the accident. In fact, claimant was examined within one year of the accident and was found suffering from 40% disability. The medical board again examined him after about one year nine months and found that he was still suffering from same disability. The Tribunal discarded this disability certificate on the ground that claimant received treatment from

PGI, Chandigarh but the disability certificate was got issued from Hoshiarpur. The Tribunal, however, allowed compensation of ₹25,000/- for shortening of leg of claimant by 3/4 inches. The ground, on which disability certificate of claimant was ignored, was not justified. While appearing as PW-1, claimant has stated that after his discharge from PGI he was getting treatment from Civil Hospital, Hoshiarpur. PW-2 Harcharan Singh Bakshi has stated that he was transporting the claimant in his Sumo vehicle bearing registration No. CH-02-0680 from his residence in Sector 40, Chandigarh to PGI, Chandigarh. The house in Chandigarh is of the brother of claimant, which he was occupying as tenant. There is no reason on file to disbelieve statement of claimant or the disability certificate issued to him. Claimant has also stated that he is income tax assessee since the year 1991 and was a licensed building contractor. Both the bones of his right leg got fractured in the accident. The statement of this witness was recorded before the Tribunal where he tendered his affidavit dated 15.01.2007 (Ex. PW-1/1) and stated that till that date he was receiving the treatment from hospital.

9. From the statement of claimant and evidence on record, it is proved that he remained as indoor patient for about two months and had spent on hospital expenses. It is a fact of common knowledge that a patient who has suffered compound fracture of right leg had to take complete rest for three to four months and even after discharge from hospital he requires continuous medical care, physiotherapy etc. to keep himself in working condition, as such, is also entitled to future medical expenses. The Tribunal has though allowed compensation for pain and suffering and conveyance expenses but the same is on lower side. Besides this, claimant is also entitled to compensation for 40% disability, though it is not functional disability, which is quantified as ₹1,50,000/-. He is also entitled to compensation under

the conventional heads like attendant charges, special diet, loss of amenities of life, future medical expenses etc.

10. From the above discussion, I am of the considered opinion that the compensation awarded by the Tribunal is not just and reasonable and calls for its reassessment. Keeping in view the facts and circumstances discussed above, the compensation to which claimant is entitled, is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Actual medical expenses as assessed by the Tribunal	₹28350
(ii)	Pain and suffering	₹15000
(iii)	Attendant charges	₹10000
(iv)	Nutritious diet	₹10000
(v)	Conveyance charges	₹7500
(vi)	Permanent disability	₹150000
(vii)	Future medical expenses	₹20000
(viii)	Loss of amenities of life	₹100000
(ix)	Loss of income @ ₹7500/- per month for three months	₹7500x3= ₹22500
Total		₹363350

11. As a sequel of my above discussion, the appeal is accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹64,350/- to ₹3,63,350/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimant in his bank accounts or pay the same through demand draft.

May 28, 2016 **(SURINDER GUPTA)**
jk **JUDGE**