214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2908 of 2015
Date of decision : 28.05.2016

Jagmal Singh

..... Appellant(s)

Versus

Harvinder Singh and others

.... Respondent(s)

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Saurabh Bhardwaj, Advocate,
for the appellant(s).

None for respondent No. 1 and 2.

Mr. Rajbir Singh, Advocate,
for respondent No 3.

JITENDRA CHAUHAN.J.

(1) This appeal is for modification of the award dated 27.02.2015 passed by Motor Accidents Claims Tribunal, Kurukshetra (for short 'The Tribunal") vide which compensation of ₹2,99,373/- along with interest @ 9% per annum was awarded to the claimant-appellant on account of the injuries suffered in a vehicular accident.

(2) On 07.11.2011, the claimant/appellant was going on motorcycle bearing registration No. HP-17B-1046. When he reached near Laborate Factory, Nariwala, P.S. Paonta Sahib, the offending bus bearing registration No. HP-17B-7516 being driven by respondent No. 1 in a rash and negligent manner and at a very high speed came from the opposite side i.e. Rajban side and struck against the motorcycle of

Sumit Srivastava
2016.06.25 13:13
I attest to the accuracy and
integrity of this document

the claimant/appellant by coming on the wrong side of the road and as a result of which, both the occupants of the motor cycle fell down on the road and suffered multiple injuries. The claimant/appellant was removed to a hospital at Paonta Sahib for treatment and from where, he was further shifted to Doon Trauma Centre & Hospital, Dehradun, where he ramined admitted as indoor patient from 07.11.2011 to 08.11.2011 thereafter, he was shifted to Government Medical College & Hospital, Sector-32, Chandigarh, where he remained admitted as indoor patient from 09.11.2011 to 15.11.2011. He spent a sum of ₹1.5 lacs on his treatment, medicines, diet, transportation etc. and due to the injuries suffered by him, he has become permanently disabled.

(3) The claimant filed claim petition under Section 166/140 of Motor Vehicles Act, 1988 (for short 'the Act') claiming compensation. It was pleaded by the claimant that he was 36 years of age at the time of accident. He was working as a Security Guard and was earning ₹7,000/- per month but due to the aforesaid accident, he has become permanently weak and disabled.

(4) The learned Tribunal awarded a sum of ₹61,373 /- on account of medical bills. Further, a sum of ₹50,000/ was awarded towards pain and sufferings. ₹20,000/- were awarded as attendant charges. Another sum of ₹20,000/- was awarded for special diet. ₹10,000/- were awarded for transportation. A sum of ₹50,000/- was awarded for loss of income. A sum of ₹88,0000/- was awarded towards loss of future earnings and enjoyment of life. Thus, total compensation

Sumit Srivastava
2016.06.25 13:13
I attest to the accuracy and
integrity of this document

of ₹2,99,373/- was awarded to the claimant.

(5) It is contended that the Tribunal awarded a sum of Rs. 50,000/- on account of pain and sufferings which is on lower side keeping in view the injuries suffered by him. It is further submitted that the appellant remained under treatment from 08.11.2011 to 15.11.2011 in Government Medical College, Sector-32, Chandigarh. The appellant suffered brain injury and impairment of hearing of one ear and vision of right eye and as a result of injury, face is also disfigured. In these circumstances, his functional disability can be safely assessed as 25%. The claimant-appellant has alleged that he was working as a Security Guard and earning a sum of ₹7,000/- per month at the time of accident. However, no cogent evidence has been led by the appellants to prove this fact. Applying the minimum wages payable to daily wagers, at D.C. Rates, income of the appellant can safely be assessed as ₹5,000/- per month. Concededly, the appellant was 36 years of age. In these circumstances, by applying multiplier of '16', loss of future income would be ₹5,000 X 12 X 16 = ₹9,60,000/-, 25% of which comes to ₹2,40,000/- as against ₹5,000/- already awarded under the head by the learned Tribunal.

(7) Keeping the nature of injuries suffered by the appellant and the fact that he suffered permanent disability to the extent of 44%, and lost hearing power of one ear and vision of right eye, this Court grants another sum of ₹ 50,000/- on account of pain and sufferings. In this way, the appellant is entitled to recover a total sum ₹2,40,000/-

Sumit Srivastava
2016.06.25 13:13
I attest to the accuracy and
integrity of this document

[₹1,90,000/- (enhancement towards loss of future income) + ₹50,000/- (enhancement towards pain and sufferings)], over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, falling which, he shall also be entitled to interest @ 7.5 % p.a., from the date of filing the present appeal, till its realization.

28.05.2016 **(JITENDRA CHAUHAN)**
sumit **JUDGE**

Sumit Srivastava
2016.06.25 13:13
I attest to the accuracy and
integrity of this document