

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

FAO No.1704 of 1992 (O&M)
Date of Decision: April 21, 2017

Satbir

..Appellant(s)

Versus

Chuhar Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ashish Gupta, Advocate
for the appellant.

Mr. Kanan Bansal, Advocate for
Mr. Munish Garg, Advocate
for respondent no.3.

Mr. Lalit Garg, Advocate
for respondent no.4-insurance company.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award passed by the Motor Accident Claims Tribunal, Jind.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award could be reconstructed. None of the parties could give any material for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

Satbir who was a PTI Teacher in a government school met with an accident on 15.09.1991. He remained in hospital for different periods and was on leave for about six months. There was a shortening of the leg by half an inch. His basic salary was Rs.1,400/- per month and the total amount paid was Rs.2,700/- per month. The Tribunal noted that there was disability to the extent of 25%, though it was claimed that Rs.60,000/- was spent on the medical treatment but the claimant was not able to produce the evidence and the following amount was awarded:-

Compensation on account of constant pain, suffering mental shock etc.	Rs.10,000/-
Compensation on account of medical expenses	Rs.27,500/-
Compensation on account of transport charges	Rs.5,000/-
Compensation on account of special diet	Rs.2,500/-
Compensation on account of loss of pay due to leave without pay for 8 months	Rs.20,000/-
Compensation on account of attendant charges	Rs.8,000/-
Compensation on account of permanent disability, loss of future enjoyment and loss of future prospectus etc.	Rs.37,000/-
TOTAL	Rs.1,10,000/-

The submission on behalf of the appellant while relying upon the judgment of *Naresh Kumar Vs. Kartar Singh and others 2014(37) RCR (Civil) 70* was that after the injury the appellant had lost all chances of promotion and the Tribunal had awarded less amount for pain and suffering and for the medical expenses, transportation and special diet. It was urged that the claimant was admitted in different

hospitals and had to travel a number of times. It was urged that in *Naresh Kumar's* case (supra) in similar circumstances, the High Court had enhanced the compensation to Rs.2,99,000/-. It was urged that since there was a fracture, the claimant would have engaged an attendant and would have paid at least Rs.4,000/- per month and the claimant had not been adequately compensated and the accident has impacted his earning capacity.

The submission on the other hand was that there was no evidence that the salary had decreased or that the claimant had lost his promotional avenues and the evidence is totally silent. It was urged that no evidence could be led to show that the claimant was on leave for 1½ year and the only evidence of PW12 was that he remained on leave without pay for 6 months and the Tribunal has awarded salary in lieu of eight months. It was urged that there is no evidence that the claimant had been travelling to different districts for his treatment and there is no loss in the income or earning capacity.

The counsel for the appellant had extensively referred to the facts of *Naresh Kumar's* case (supra) but I find that there is no similarity on facts or even the injury. The appellant there was a driver of a Roadways bus who had suffered multiple fractures and there was malunion of the lower tibia and loss of earning capacity was taken as 20%. The injured remained hospitalized for over 108 days and in those circumstances compensation was calculated for the multiple operations the injured had to undergo.

In the case in hand, the claimant was working as a PTI Teacher in a government school. There was no loss so far as his income was concerned. He had been adequately compensated for the leave which was without pay. The Tribunal had awarded Rs.37,000/- for the permanent disability. The disability was assessed at 25%. If the income is taken as Rs.2,700/- per month, the functional disability would be lesser and is taken at 10%, the loss would be $270 \times 12 \times 17 =$ Rs.55,080/-. The Tribunal had allowed Rs.37,000/-, therefore, the claimant is entitled to an increase of Rs.18,080/-.

The claimant is not entitled to any amount for the medical expenses as there was no evidence. The claimant had pleaded that he had spent Rs.60,000/- but the Court on the basis of the little material produced before it awarded Rs.27,500/-, which is adequate. I would add Rs.3,000/- more for transportation and Rs.5,000/- more for the pain and suffering, raising the total to Rs.26,080/-.

The award is modified. It is held that the appellant is entitled to an additional amount of Rs.26,080/-, which would be payable with interest @ 6% from January, 1993.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

April 21, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No