Sr. No. 202

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1781 of 1992(O&M)
Decided on:02.08.2017

Gulab Singh **..........Appellant**

versus

Hukam Singh and others **..........Respondent**

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. K.S.Dhanora, Advocate
for the appellant.

Mr. Vinod Chaudhary, Advocate
for respondent No.3.

Rajbir Sehrawat, J.(Oral)

This is an appeal on behalf of the injured claimant for enhancement of the compensation awarded by the Learned Motor Accidents Claim Tribunal hisar vide its decision dated 14.05.1990.

The bried facts of the case are that on 1.03.1990 the appellant Gulab Singh was going to his village Patan from Hisar in a three wheeler. When he reached 1 km short of Bal-Samani minor on Hisar–Balsamand road, a Maruti Van bearing No. DID-5733(for short, 'Van') being driven by respondent No. 1 Hukam Singh came from front side. The Van was being driven negligently. The Van struck against the three wheeler in which the appellant was travelling. Due to the accident the appellant got serious and grievous injuries. The hips and leg of the appellant Gulab Singh got fractured. Hence the claim petition was filed.

Parties led their evidence.

After hearing learned counsel for the parties and appreciating the evidence the Tribunal awarded the amounts of compensation as under:-

1	Compensation for pain and Sufferings	Rs.8000-00
2	Compensation for loss of income during the admission in hospital	Rs.1000-00
3	Compensation for expenses on medicines operation etc.	Rs.5000-00
4	Compensation for adverse effect on future prospectus, due to permanent disability and shortening of leg etc.	Rs.1000-00
5	Compensation for expenses on transportation	Rs.1000-00
6	Compensation for deprivation of love and affection of the family	Rs.2000-000
7	Compensation for expenses on attendant in the hospital	Rs.1000-00
8	Compensation for expenses on special diet	Rs.1500-00
	Total	Rs.29500-00

Counsel for the appellant has argued that he is an agriculturist and used to earn ₹2,000/- per month. He remained confined to bed atleast for two months and spent about ₹15,000/- on his treatment. He was hospitalised for 20 days. During these 20 days he was operated upon twice for putting the nails and plates on the fractured portion and then for removing the same. His disability has been assessed to be permanent 30% disability. Therefore, his submission is that the amounts awarded to him on account of pain and suffering, loss of income, for adverse effect on future prospects, existence for transportation and special diet and dependant are grossly inadequate. Therefore, the same deserve to be enhanced.

Learned counsel appearing for the insurance company has argued that the Tribunal has rightly awarded the compensation as mentioned in the award and that compensation sufficiently compensates the appellant on all counts.

After hearing learned counsel for the parties and perusal of the record it is clear that the compensation of ₹ 1,000/- only on account of disability and shortening of leg etc., is grossly inadequate. The appellant is proved to have incurred 30% permanent disability involving shortening of leg by one inch. Therefore, on the account of disability alone, he is entitled to a higher and sufficient amount of compensation. As per the prevalent trend qua disability for 30% permanent disability the appellant is entitled to ₹ 60,000/- as compensation. Accordingly, the same is awarded to him. Still further, the appellant has remained hospitalised for 21 days. He has been operated upon twice. He had got nails and plates inserted in his leg. Therefore, only he can describe the pain and suffering suffered by him in the entire process. However, to compensate him for that tremendouos pain and suffering an amoun of ₹15,000/- deserves to be awarded. Therefore, the same is awarded to the appellant.The Tribunal has awarded only ₹ 1,000/- for loss of income during the admission in hospital. It is too inequitous to presume that a person would start earning the same income just after coming out of the hospital which he was earning before he was admitted to hospital for treatment of injuries suffered in the accident. He must have suffered loss in the ensuing months also and also during the follow up treatment. Therefore, loss of income deserves to be enhanced to ₹5,000/-. The compenation for expenses on medicine and operations has been assessed to be ₹5,000/- only. This has not taken into consideration the fact that even during the follow up treatment the medicines would be required for getting recovered from the injuries. Therefore, the expenses on account of medicines awarded to the appellant are enhanced to ₹10,000/-. It is well known fact that a person with 30% disability can not work with the same vigour and consistency as he was doing when he was fully fit and healthy without any disability. The permanent disability does have the adverse effect on the future earning of the person and therefore, the Tribunal has also granted ₹1,000/- on account of adverse effect on future earnings due to disability. However, ₹1,000/- awarded on this account is grossly inadequate. This deserves to be enhanced to ₹10,000/- and the same is granted accordingly. Since as per the record, the appellant was operated upon twice, therefore, he was required to go to hospital repeatedly. Therefore, the expenses of ₹1000/- only awarded on account of transportation is also inadequate and the same is enhanced to ₹5,000/-.Besides this, the compensation awarded on account of deprivation of love and affection, attendant in hospital and special diet are retained as granted by the Tribunal. Therefore, the compensation awarded to the appellant is as under:-

1	Compensation for disability	Rs. 60000-00
2	Compensation for pain and Sufferings	Rs.15000-00
3	Compensation for loss of income during the admission in hospital	Rs.5000-00
4	Compensation for expenses on medicines operation etc.	Rs.10000-00
5	Compensation for adverse effect on future prospectus, due to permanent disability and shortening of leg etc.	Rs.10000-00
6	Compensation for expenses on transportation	Rs.5000-00
7	Compensation for deprivation of love and affection of the family	Rs.2000-000
8	Compensation for expenses on attendant in the hospital	Rs.1000-00
9	Compensation for expenses on special diet	Rs.1500-00
	Total	Rs.109500-00

In view of above, a total of ₹109500/- is awarded to the appellant in this case. This amount shall carry the interest as awarded by the Tribunal. The appeal is allowed in the above terms and the award of the learned MACT is modified to that extent.

2nd August, 2017 **[RAJBIR SEHRAWAT]**
Shivani Kaushik **JUDGE**

Whether speaking/reasoned *Yes*

Whether Reportable *Yes*