

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

FAO No. 261 of 1993 (O&M)

Date of decision: 15.02.2017

Mohinder Singh

... Appellant

Versus

Sewak Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Parvez Chugh, Advocate for the appellant.

Mr. P.S. Bajwa, DAG Punjab.

HARI PAL VERMA, J. (ORAL)

The appellant-claimant has filed the present appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ferozepur (in short 'the Tribunal'), vide award dated 03.09.1992.

It is an admitted case of the parties that on 14.03.1989 the claimant was travelling in bus No.PJG-7422 owned by PEPSU Road Corporation from Lohian to Zira. The said bus was parked at bus stand of Makhu and the claimant at that time was sitting at the place of conductor at rear portion of the bus and reading newspaper. At about 2.10 pm another bus bearing No. PBE-51 of Punjab Roadways, Patti Depot, which was being reversed by the driver of the bus, in order to take it on the road leading to Amritsar in a rash and negligent manner, stuck against the back of PEPSU Road Corporation bus in which the claimant was sitting. In this process, claimant received a serious injury

on his left arm. He was taken to the hospital where his left arm was amputated. The claimant was about 21 years of age at the time of accident and was working as an Assistant of Dr. Sant Prakash Singh. He was earning ₹ 2,000/- per month as well as assisting his father in the cultivation of land. He remained in hospital for about 11 days i.e. from 14.03.1989 till 24.03.1989. The injury as examined by the doctor on the claimant read as under:-

“Crushed lacerated wound of whole of left fore arm and upper arm. The underlying bones were fractured and coming out of the wound. Bleeding was present.”

For the aforesaid injury, the claimant has filed a petition under Section 110-A of the Motor Vehicles Act. The learned Tribunal has found that the accident has taken place due to negligence of both, the claimant as well as the driver of the offending vehicle and negligence was determined in the ratio of 30:70. The claimant got injury, which led to amputation of his left arm. It was also observed that left arm of the claimant could not have been injured had he kept his arm inside the body of the bus. The Tribunal awarded a consolidated sum of ₹15,000/- on account of cost of treatment, conveyance charges, special diet and awarded ₹60,000/- as compensation for amputation of his left arm and becoming permanent disabled person. However, while applying the principle of contributory negligence, 30% of the amount was deducted from the amount under

the head of permanent disability. In this manner, an amount of ₹15,000 + ₹42000= ₹57,000/- was awarded to the complainant.

Projecting his case that the compensation awarded by the Tribunal is on the lower side, the appellant has approached this Court seeking enhancement of compensation.

Learned counsel for the appellant has argued that in fact there was no contributory negligence on the part of the claimant as at the time of accident he was sitting in the bus and as such he remained in the bus. Driver of the offending vehicle was required to take extra precaution while reversing the vehicle. Even otherwise compensation awarded by the Tribunal under various heads is too meager to satisfy the claim. Therefore, the compensation is liable to be enhanced.

Learned State counsel has argued that there is no illegality in the award passed by the Tribunal. The claimant was required to take all possible precautions while travelling in the bus. It is because of his negligence that he suffered injury which led to amputation of his arm. The learned Tribunal has rightly assessed the compensation by fixing contributory negligence of 30% with the claimant and 70% with the respondent.

I have heard learned counsel for the parties.

There is no doubt that the claimant who was travelling in the bus was required to take extra precaution and should not have put his arm outside the window, but, having analyzed the amount of

compensation awarded by the Tribunal, this Court finds that the compensation awarded by the Tribunal is not in consonance with the injury suffered by the claimant.

Claimant has been awarded a consolidated amount of ₹15,000/- to meet the cost of treatment, conveyance charges, special diet and charges incurred by him during his treatment in the medical college, Faridkot. This Court finds that the said amount is too meager. The claimant deserves an addition of another sum of ₹15,000/- towards the aforesaid heads. Similarly, for the amputation, the claimant has been awarded only ₹42,000/- (i.e. ₹ 60,000-30% on account of contributory negligence). This amount is also on lower side. For such a major injury, where left arm of the complainant was completely amputated, he deserves another addition of ₹58,000/- under this head making it Rs. 1,00,000/-.

Accordingly, the award dated 03.09.1992 passed by the tribunal is modified with an addition of ₹ 73,000/- over and above the amount awarded by the Tribunal

The appeal stands disposed of in the above terms.

(HARI PAL VERMA)
JUDGE

15.02.2017

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Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No