

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1692 of 2003

Date of Decision: 17.08.2017

Jiwan Singh

... Appellant

Versus

Jaswinder Singh and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: None for the appellant.

Mr. Pardeep Goyal, Advocate,  
for respondent No.3.

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**RAJIV NARAIN RAINA, J.**

1. This is claimants appeal for enhancement of compensation. The file has been re-constructed after destruction in the fire that broke out in the High Court some years ago. The claim is for sustaining fractures of the right leg and right arm as a result of motor accident.

2. The Motor Accident Claims Tribunal, Ferozepur vide award dated February 01, 2003 has awarded a sum of ₹50,000/- as compensation to the appellant claimant. He had to undergo operations three or four times and iron rods had to be fitted in his right leg and right arm. He was earning a living as a driver and was earning about ₹3000/- per month. The disability is permanent in nature but the extent has not been assessed by doctors.

3. The disability certificate produced as Ex.A-1 has not been relied upon by the Tribunal because doctor who issued the certificate assessing disability were not examined. The Tribunal found that the

claimant had spent ₹35,000/- to ₹40,000/- for the treatment. The accident occurred on November 19, 1995 and the claim petition was filed on October 04, 2000. The Tribunal has awarded ₹50,000/- on account of actual medical expenses incurred by the claimant and for his pain and agony which would be no more than ₹5,000/- the total awarded amount being is ₹50,000/- in a joint head of claim.

4. There is no one to represent the appellant.

5. I have heard the arguments of the counsel for the Insurance Company and have perused the record on file and am of the view that the amount is far too little for the extent of injury suffered and the disability, whatever is its extent. There can be no doubt that with rods in the right leg and right arm the disability would be permanent and would affect his earning capacity as a driver on a permanent basis for which he has to be adequately compensated. The pain and agony of suffering orthopedic surgeries three or four times over a period of time with its casual connection being tied with the accident, then I am inclined to think that for pain and agony the appellant should be entitled to at least ₹50,000/- even by keeping in view the value of money in 1995 which is the year of the accident.

6. The actual expenses on treatment are duly supported by Exb.A-2 to A-52 are a the proper sum to award by accepting ₹40,000/-. For loss of future earning capacity it would, in my view, be justified to award ₹1 lakh keeping in view the nature of the occupation.

7. Accordingly, the total compensation should be ₹40,000/- for medical expenses and ₹50,000/- for pain and suffering and an additional ₹1 lakh for loss of earning capacity and future prospects which comes to

₹1,90,000/-. To this figure another sum of ₹10,000/- towards special diet and transportation deserves to be added. The grand total comes to ₹2 Lakh.

8. As far as interest is concerned which the Tribunal has directed to be paid @9% per annum if the amount is not deposited within the time allowed then learned counsel for the Insurance Company submits that the element of insurance be done away with.

9. If interest on compensation is granted at the rate of interest prescribed in the Code of Civil Procedure i.e. 6% on the amount of ₹2 lakh accruing from October 04, 2000 till the present, the interest as per calculation would work out to be ₹2,04,000/-. Since the claim petition was filed about five years after the accident then I feel the ends of justice will be served if the interest amount is reduced by half and read as lumpsum ₹1 lakh.

10. Accordingly, the appeal is partly allowed and the impugned award is modified. The claimant is held entitled to ₹3 lakh as compensation for the injuries suffered.

11. However, this order will remain subject to the right of the claimant to approach this Court for revival of the appeal, in case, he feels dissatisfied with the modified award since he was not heard, nor his counsel appeared today despite notice nor sought a pass over. The case has been listed for hearing following the steps taken by the Arrears Committee of this Court to expedite disposal of old cases.

12. Accordingly, the respondent-Company would deposit the balance amount of ₹2,50,000/- before the Motor Accident Claims Tribunal, Ferozepur within two months from the date of receipt of certified copy of

this order.

13. A copy of this order be sent by the office to the claimant.

(RAJIV NARAIN RAINA)  
JUDGE

17.08.2017  
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*Whether speaking/reasoned*                      *Yes*

*Whether reportable*                              *No*