

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

FAO No. 271 of 1997 (O&M)
DATE OF DECISION : 07.09.2017

Hari Ram

.... APPELLANT

Versus

Satish Kumar and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Bhag Singh, Advocate, for the appellant.

Mr. R.K. Bashamboo, Advocate, for respondent No.3.

Mr. D.R. Bansal, Advocate, for respondent No.6.

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AVNEESH JHINGAN, J. (Oral)

The present appeal is filed against the award dated 02.12.1994 passed by the Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal').

2. The brief facts necessary for adjudication of the present appeal are that on 12.04.1992, appellant Hari Ram suffered grievous injuries in a road accident, when van bearing registration No. HR-01-7893, in which he was travelling, struck against vehicle (Swaraj Mazda) bearing registration No. HID 1439. As a result of the accident, the appellant who was 49 years old at that time suffered skull fracture. He was admitted in Hospital and was operated.

3. A claim petition under Section 166 of the Motor Vehicles Act,

1988 was filed by the claimant claiming compensation for the injuries received by him in the accident.

4. The Tribunal, after considering the evidence and witnesses, awarded a lump sum amount of ₹ 45,000/- to the appellant along with interest at the rate of 12% per annum.

5. Aggrieved of the said award, the claimant filed the present appeal for enhancement of the amount awarded by the Tribunal.

6. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

7. Learned counsel for the appellant argued that the amount of ₹ 45,000/- awarded by the Tribunal is on lower side. The appellant had to undergo surgery at PGI. He suffered a fracture in the skull, because of which he was unconscious and in such state of mind, the family members were not able to retain the bills etc. of the expenses incurred in the Hospital.

8. Learned counsel for respondents No.3 and 6 defended the award and argued that in the absence of any disability certificate and medical bills, the lump sum amount of ₹ 45,000/- awarded by the Tribunal is sufficient and calls for no interference.

9. There is no dispute that the injuries suffered by the appellant were result of the vehicular accident and even Dr. Manju Prasad from PGI appeared as AW2 and deposed that the appellant came to PGI on 13.04.1992 due to accident injury. He had a fracture of skull with brain contusion. He further stated that the appellant was operated on 13.04.1992.

10. Keeping in view the nature of injuries, the amount awarded by

the Tribunal is less and requires to be enhanced. Even if the medical bills were not produced, it has not been disputed that the appellant had to undergo operation of skull. In such circumstances, the pain and suffering; expenses relating to treatment, medicines ad transportation; and loss of earning during the period of treatment, have to be taken into consideration.

11. Hon'ble the Apex Court in ***G. Ravindranath @ R. Chowdary Versus E. Srinivas and another***, 2013(12)SCC 455, held as under:

“It is settled law that compensation in personal injury cases should be determined under the following heads:

Pecuniary damages (Special damages)

(i) *Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food and miscellaneous expenditure.*

(ii) *Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:*

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) *Future medical expenses.*

Non-pecuniary damages (General damages)

(iv) *Damages for pain, suffering and trauma as a consequence of the injuries.*

(v) *Loss of amenities (and/or loss of prospects of marriage).*

(vi) *Loss of expectation of life (shortening of normal longevity).*

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.”

In view of the aforesaid decision of the Apex Court, the appellant is also entitled to compensation under various heads for pecuniary and non-pecuniary losses.

12. In view of the above discussion, keeping in view the injury suffered by the appellant and the various heads which are required to be considered, the amount of ₹ 45,000/- awarded by the Tribunal is enhanced to ₹ 75,000/-. The enhanced amount be paid to the appellant along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount. The liability would be in the same ratio, as ordered by the Tribunal.

13. Appeal is partly allowed, in the aforesaid terms.

September 07, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes