

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

FAO No.2566 of 1999

Date of Decision.05.07.2017

Shabeg Singh

.....Appellant

Vs

Lal Chand and others

.....Respondents

Present: Mr. P.S. Brar, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.3.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for injuries suffered by the claimant-appellant in a motor accident, took place on 06.12.1993. When he was going on foot towards Kandukhera from the side of village Tramala, a jeep bearing registration No.HIK 5341, driven by respondent No.1 rashly and negligently came from the opposite side and dashed against him, resulting into amputation of his left leg. He remained hospitalized from 6.12.1993 to 24.12.1993 and spent ₹50,000/- on his treatment, special diet and attendant etc. The claimant has owned 30 acres of agricultural land.

As per the version of PW3, Dr. Subhash Mahajan, the claimant-Shabeg Singh was admitted in the department of Orthopaedics at Rajindra Hospital and his left leg was amputated on 11.12.1993 above knee joint and intra maxillary fixation was done for fracture mandible. As per EX.PD, certificate issued by Civil Surgeon, Muktsar, his physical disability was assessed at 60% as permanent.

The Tribunal while assessing the compensation observed that

the claimant had to hire the services of a tractor driver for cultivating his agricultural fields and he paid ₹30,000/- per year to the driver. Therefore, it took the annual loss to the tune of ₹30,000/- per year, applied a multiplier of 5 and while taking the physical disability of 60% as functional disability, assessed the loss of future income at ₹90,000/-. Apart from that, provided a sum of ₹60,000/-towards expenses incurred on treatment and as well as pain and suffering, thus, in all, a sum of ₹1,50,000/- was assessed as compensation along with 12% interest from the date of petition till its realization.

The contention of learned counsel appearing on behalf of the appellant is that the Tribunal has erred in assessing the compensation as the amount of compensation is to be assessed separately under each head i.e. loss of income during the period of hospitalization, attendant charges, special diet, expenditure incurred on medicines, transportation, loss of future income, loss of pain and suffering and loss of amenities etc., which it failed to do so, thus, the award is required to be modified.

On the contrary, Mr. Suvir Dewan, learned counsel appearing for respondent No.3 contends that the award passed by the Tribunal is perfectly legal and justified and there is no scope for enhancement.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Brar. The amount of compensation under various heads is required to be re-assessed and the same is tabulated as under:-

INJURY CASES			
Age	60 years		
Period of Hospitalization 6.12.1993 to 24.12.1993			
Occupation			
	Heads of claim	Tribunal	High Court

INJURY CASES			
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Loss of income		
2	Medical expenses		
(i)	Medicines	60,000	50,000
(ii)	Hospital Charges	--	--
(iii)	Attendant Charges	--	5000
(iv)	Special Diet	--	5000
(v)	Transport	--	2500
(vi)	Future medical expenses		
3	Pain & Suffering-per fracture/per surgery		25,000
4	Disability	60%	60%
5	Loss of earning capacity	60%	60%
	Income per annum	30,000	30,000
	Multiplier	5	9
	Future loss of income	90,000	1,62,000
6.	Loss of amenities	--	25,000
7	Reduction in life expectancy	--	--
8	Loss of prospect of marriage	--	--
9	Loss due to disfigurement	--	--
	Total	1,50,000	2,74,500/-

The total amount of compensation payable shall be ₹2,74,500/-.

The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till the date of realization. The liability shall be on the insurance company as fixed by the Tribunal.

The award is modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

July 05, 2017
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No