

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

FAO No. 876 of 2000

DATE OF DECISION : 01.12.2017

Anoop Giri

.... APPELLANT

Versus

Ram Pal and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. A.S. Virk, Advocate,  
for the appellant.

Mr. Suvir Dewan, Advocate,  
for respondent No.3 – Insurance Company.

\* \* \*

**AVNEESH JHINGAN, J.** ( Oral )

The present appeal has been filed against the award dated 06.10.1999 passed by the Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal').

The factual matrix of the present case are that on 12.11.1995, claimant Anoop Giri was going in car bearing temporary registration No. CH-16-9912 (Applied for) being driven by Vipin Kumar Sharma, from Mandi Gobindgarh to Delhi. In the way, the car was struck by a rashly and negligently driven tanker bearing registration No. HR-45/1381. As a result of the accident, Anoop Giri suffered injuries.

The injured a claim petition under Section 166 of the Motor

Vehicles Act, 1988.

The Tribunal, after appreciating the facts and considering the evidence produced before it, awarded a sum of ₹ 1,01,000/- along with interest at the rate of 12% per annum.

Aggrieved of the said award, the claimant filed the present appeal for enhancement of compensation.

I have heard learned counsel for the parties and perused the paper-book and all the relevant documents.

Learned counsel for the appellant argued that the appellant was hospitalized from 13.11.1995 to 23.11.1995. He underwent treatment in CHC Shahabad and remained admitted in Manglam Hospital, Delhi. He was operated upon the ankle and plating was done. He remained bed ridden for three months. The injuries suffered were fracture on lower end fibula and lower end tibia right side. The ankle joint was also damaged. He suffered 10% disability. A second operation was required to remove the plates. Learned counsel contends that no amount has been awarded for attendant and loss of earning during the period of treatment. His grievance is that the amount awarded under various heads is on the lower side.

Learned counsel for respondent No.3 – Insurance Company defended the award. He contended that nothing has been brought on record to show that what is the functional disability of the appellant. He argued that the appellant had not proved that 10% disability of the appellant had effected his day to day working. He resisted any further enhancement.

The appellant suffered grievous injuries, as a result of an accident. He remained hospitalized for almost ten days. He was operated upon and plates were fitted on his ankle. It has come on record that surgery would be required for removal of the plates. The Tribunal, while awarding compensation, has not considered that the pain and suffering is not only physical pain, but it includes trauma, harassment and mental agony. The injuries suffered by the appellant were such that an attendant would have been required during the period of hospitalization and subsequently also. The surgery and the fractures would have ensured that he would not have been able to work for at least three months. It was claimed that he was working with M/s World Impex on monthly salary of ₹ 4,000/-. The disability of 10% qua limb had been proved vide Ex.P52 and the same was proved by deposition of PW.3 Dr. J.P. Bharal, no positive evidence had come on record that how this 10% disability has effected day to day working of the appellant. Instead of remanding back the matter, it would be fair to rely upon a Division Bench decision of this Court in **Piara Singh and others Vs. Satpal Kumar and others**, 2006(4) RCR (Civil) 546, wherein compensation for permanent disability was awarded by multiplying ₹ 2000 with each percentage of permanent disability.

Further, in **G. Ravindranath @ R. Chowdary Vs. E. Srinivas and another**, 2013 (12) SCC 455, the Hon'ble Apex Court has held that in case of non-fatal injuries, both pecuniary and non-pecuniary damages are to be compensated.

Keeping in view the law laid down in the aforesaid decisions, and the reasons recorded above, the compensation under various heads is awarded as under :

|                                                        |              |
|--------------------------------------------------------|--------------|
| Pain and suffering                                     | ₹ 20,000/-   |
| Hospitalization                                        | ₹ 20,000/-   |
| 10% disability<br>2000 x 10                            | ₹ 20,000/-   |
| Attendant                                              | ₹ 10,000/-   |
| Special diet                                           | ₹ 5,000/-    |
| Transportation                                         | ₹ 5,000/-    |
| Medical bills                                          | ₹ 46,000/-   |
| Loss of earning during period of treatment<br>4000 x 3 | ₹ 12,000/-   |
| For future operation required for removal of plates    | ₹ 10,000/-   |
| Total                                                  | ₹ 1,48,000/- |

In view of the above, the award dated 06.10.1999 passed in MACT case No. 46 of 1997 is modified to the extent that the compensation of ₹ 1,01,000/- awarded by the Tribunal is enhanced to ₹ 1,48,000/-.

The appellant shall be entitled to the enhanced amount 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 appeal is partly allowed in the aforesaid terms.

**December 01, 2017**  
ndj

**( AVNEESH JHINGAN )**  
**JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes  
No