

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**FAO No. 3269 of 1999 (O&M)
Decided on: 25.10.2017****Dr. Virender Walia****.....Appellants****versus****Gurmit Singh@ Meena and Ors.****.....Respondents****CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT****Present:** Mr. Balwinder Singh, Advocate with
Mr. Tarun Walia, Advocate
for the appellant.Mr. V. Ramswaroop, Advocate
for respondent No.3*********RAJBIR SEHRAWAT, JUDGE (ORAL)**

The present appeal has been filed by the claimant-injured against the award of Motor Accidents Claim Tribunal, Chandigarh whereby an amount of Rs.4,48,000/- was awarded to him on account of the injury suffered by him. The claim in the appeal is that the compensation award is grossly inadequate and the same deserves to be enhanced.

The facts of the case, in nutshell, are that on 11.08.1996 the claimant and his son were travelling in car bearing registration No.CH-01-L-0050. The claimant-Dr. Virender Walia was on the wheel, while his son-Vikram Walia was sitting by his side. When they reached near Ambala Cantt., a Tanker bearing registration No. CHW-6856, coming from the opposite side, with a fast speed and being driven in a negligent manner, dashed against the car of the claimant; by coming on the wrong side of the road. As a result, the accident happened. The claimant and his son suffered injuries. An FIR No.382 dated 12.08.1996 was also registered regarding this accident. It was claimed that the claimant was 47 years of age at that time and he was a

employed as a Medical Officer in the Punjab Civil Medical Services, and was drawing Rs.12,000/- per month as salary. It was further pleaded that in the accident he has suffered serious injuries, including multiple fractures on his right thigh, right fore-arm and left knee and several fractures, on other parts of the body. The claimant had to undergo surgeries several times. Implants were put inside the body of the claimant, besides this, bone grafting was also done. Therefore, it was claimed that he had spent Rs.40,000/- on his treatment. It was further claimed that due to the multiple serious injuries, he suffered permanent impairment and cannot perform his duty as Medical Officer properly. Therefore, the claim petition was filed claiming Rs. 10 lac as compensation.

The claim petition was contested by respondents No.2 and 3. Respondent No.1-driver did not put appearance; so he was proceeded ex-parte. The contesting respondents denied that the accident had been caused by the rash and negligent driving of the offending tanker. All other particulars were also denied. The Insurance Company-respondent No.3 had also contested the claim petition. They also denied the contents of the claim petition.

The parties led their evidences.

After hearing the parties, the Motor Accident Claims Tribunal award an amount of Rs.4,48,000/- to the claimant as compensation. Out of this Rs.3,20,000/- were awarded to the claimant on account of his future loss of income, as 19% of the total presumed future income of the claimant (proportionate to disability) by taking the income of the claimant as Rs.14,000/- at the time of accident. Still further, the amount of Rs.78,000/- was awarded on account of loss of salary for six months on the basis of the fact that the claimant could not perform his duty and had to take leave for which he

suffered loss of pay. Still further, Rs.40,000/- was awarded on account of pain and suffering. However on account of medical expenses only Rs.10,000/- were awarded.

Arguing the appeal learned counsel for the appellant has submitted that the Tribunal has not awarded anything to the claimant on account of physical disability. Still further it is argued that multiplier of 10 applied by the Tribunal is on lower side and as per the judgement of the Hon'ble Supreme Court in case of *Sarla Verma Vs. DTC (2009) 6 SCC 121* the multiplier of 13 is required to be applied. Still further it has been argued that the amount awarded on account of medical expenses, pain & suffering is grossly inadequate. Still further he argued that the Tribunal has not granted anything on account of special diet and transportation and attendant charges. In the end, the counsel submitted that as a matter of fact, the State of Punjab had revised the salaries of the Government doctors in the year 2008 w.e.f. 01.01.1996 and his salary was revised Rs.20,020/- per month. Therefore, his submission is that the compensation on account of loss of future income should be enhanced accordingly. To substantiate his claim the appellant has placed on record his last pay certificate (Annexure P-2) (not disputed by the respondents) after the pay revision.

On the other hand, learned counsel for Insurance Company has vehemently opposed any enhancement. He has contended that the compensation has rightly been awarded by the Tribunal and need no enhancement at all. However he did not deny the fact of pay revision of the claimant-appellant.

Having heard the learned counsel for the parties and perusing the record with the able assistance of the counsel for the parties, this Court is of the considered opinion that the award passed by the Tribunal deserves to be

modified; by enhancing the compensation awarded to the claimant/appellant. First of all, the Tribunal has taken the salary which stands revised, later on but w.e.f. the date prior to the date of accident. Admittedly, pay-scales of the Govt. doctors in Punjab has been revised and the salary of the claimant has been increased to Rs.20020/- Therefore, the increase in salary has to be taken into consideration for the award of the compensation. Hence, the salary of the claimant for the purpose of compensation is taken to be Rs.20,000/- by rounding of the figure. Accordingly, loss of income @ 19% of the salary comes to Rs.3800/- per month. Still further as per the judgement of the Hon'ble Supreme Court in case of *Sarla Verma Vs. DTC (2009) 6 SCC 121* the multiplier of 13 has to be applied in this case. Accordingly the multiplier of 13 is held to be applicable. So on account of loss of future income, the compensation of Rs.5,92,800/- (3800 x12x13) is awarded to the appellant.

Since, admittedly, the Tribunal itself has held that the claimant could not undertake his normal routine at least for six months and had to take leave from the job for which he lost salary. Therefore the amount of compensation on account of loss of income/salary is enhanced to Rs.1,20,000/- (20,000x6). Still further keeping in view the fact that the claimant had suffered injuries on almost every several parts of the body and had to undergo bone grafting and implants installations, an amount of Rs.1,00,000/- deserves to be awarded on account of pain and suffering. Still further in view of the nature of the injuries, repeated operations and bone grafting etc. the amount of Rs.10,000/- only awarded by the Tribunal for medical expenses is also grossly inadequate. Even if it is presumed that the claimant himself is a doctor and he might have been required to spend less on the treatment and procedures, still he will have to bear the expenses of the implants and grafting etc. Therefore, the amount awarded on account of medical expenses is enhanced to Rs. 30,000/-.

Still further, it is clear that for physical disability, the claimant has not been granted any amount. Following the normal formula of Rs.2000/- per percentum of the physical disability; the claimant is awarded an amount of Rs.38000/- on account of physical disability as well.

Since it has come on record that the appellant suffered multiple injuries and had to take long treatment, therefore, it is but natural that he would require the special diet as well as the transportation and service of the attendant for long time. The Tribunal has not compensated the claimant, on that account. Accordingly an amount of Rs.50,000/- is awarded in lump sum on account of special diet, transportation charges and attendant service charges.

In view of the above, the claimant is awarded the compensation as follows.

1.	Loss of future Income (19%)	Rupees
	3800 x12x13	5,92,800/-
2.	Loss of income	1,20,000/-
3.	Compensation for pain and suffering	1,00,000/-
4.	Compensation for medical expenses	30,000/-
5.	Special Diet, Transportation and Attendant charges	50,000/-
6.	Physical disability	38,000/-
	Total	9,30,800/-

The interest on the awarded amount is retained as was awarded by the Tribunal.

In view of the above, the appeal is allowed in the above said terms.

25th October, 2017

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No