

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

FAO No.1363 of 2001 (O&M)
Date of Decision: 20.9.2017

Rajinder Kumar

...Appellant

Versus

State of Haryana

... Respondents

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

Present: Mr.Vinod Kanwal, Advocate for
Mr.Ashit Malik, Advocate for the appellant.

Mr.Ripudaman, AAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. This appeal has been filed by the claimant against the State of Haryana since the offending vehicle was of Haryana Roadways. The appellant suffered an injury in the motor accident involving the Bus leaving him 30% disabled in relation to the whole body on account of a central pelvis fracture, dislocation of the right hip, fracture of pubic ramus, both sides. The appellant was a student reading in +12 and lay bed ridden for a considerable period of time. His studies were disrupted for one year while recuperating from the injuries suffered. The permanent disability is in the right leg and the medical doctor opined that the appellant would have to live with the disability throughout his career. It would also affect his matrimonial chances and it may be difficult for him to find a suitable match.

2. The learned Motor Accidents Tribunal at Karnal vide its order dated 8th August, 2000 has awarded ₹5,000/- as compensation for pain and suffering; ₹20,000/- as compensation for expenses on medicine and treatment; ₹60,000/- for compensation for adverse effect on the career and

conveyance, attendant and lastly ₹ 10,000/- as compensation for loss of education and adverse effect on his matrimonial prospects and to meet unforeseen expenses in hospital. A total amount of ₹ 1.00 lakh has been awarded. ₹ 1000/- has been granted on account of counsel fee.

3. The total amount as awarded by the Tribunal is too meagre an amount to justify the extent of permanent disability and that too for a +2 student at the threshold of entering college for further studies. In the considered view of this Court, no variation should be made for compensation for expenses on medicines and treatment and for special diet i.e. ₹ 20,000/- and ₹ 5,000/- respectively. However, a substantial increase in compensation is required, in view of the permanent disability under the head of compensation for adverse effect on career prospects and on future income and for this, the amount assessed at ₹ 60,000/- by the Tribunal deserves to be enhanced by at least four times, by applying rule of thumb in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 which comes to ₹ 2,40,000/-.

4. The cascading effect of loss of education for one year postponing one year of loss of future income from the first job coupled with permanent disability of 30% will seriously impact claimant's life, employability and matrimonial prospects for which head the learned Tribunal has awarded only ₹ 10,000/- is extremely faulty and deserves to be increased substantially even keeping in view the long pendency of this appeal, to at least ₹4.00 lakhs and in addition ₹5000/- towards expenses incurred in filing this appeal.

5. Accordingly, the total compensation deserves to be increased realistically from ₹ 1.00 lakh to ₹7,65,000/- payable in lump sum. Learned

1,20,167/- to the claimant. Therefore, this amount has to be deducted from the amount assessed today at the hearing i.e. ₹ 7,65,000/- meaning thereby the respondent is directed to pay balance amount of ₹ 6,44,833/- to the claimant.

6. To balance out the equities between the permanently injured claimant and the Haryana Roadways for the rash and negligent driving by its driver, interest as awarded by the Tribunal is reduced from 12% to 6% per annum to accrue from 20th January, 2001.

7. It may be noted that this appeal was burnt in the devastating fire which broke out by accident some years ago in the High Court premises where files were stored and the paper-book has been reconstructed. The date i.e. 20th January, 2001 is the date the stamps were punched by the office in this appeal.

8. As a result, this appeal is allowed and the impugned award dated 8th August, 2000 passed by the Tribunal is modified to the extent as indicated above. Respondents are directed to pay the aforesaid amount with interest to the appellant within three months from the date of receipt of a certified copy of this order.

20.9.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No