

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

FAO No.2666 of 2001

Date of decision : 12.01.2017

Gurpal Singh

.....Appellant

Versus

Harbhajan Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Vikas Mohan Gupta, Advocate for appellant.

Mr. Harsh Aggarwal, Advocate for respondent-PRTC.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 11.04.2001, passed by the learned Motor Accidents Claims Tribunal, Ropar (hereinafter called the “Tribunal”), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellant-claimant has been awarded compensation to the tune of ₹1,10,000/- on account of injuries sustained by him in the motor vehicular accident which took place on 22.08.1999.

2. The present appeal has been preferred by the appellant-claimant for enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and have gone through the paper-book carefully.

4. Initiating the arguments, learned counsel for the appellant-claimant contended that learned Tribunal has not awarded just compensation. The claimant has suffered serious injuries in this case including multiple fractures. He also suffered injuries to his right eye. He further suffered permanent disability to the tune of 50%. Thus, he contended that the claimant is entitled to compensation to the tune of ₹5,00,000/-.

5. On the other had, learned counsel for respondent-PRTC contended that the learned Tribunal has awarded just compensation by considering all aspects of the case. The compensation has been awarded under all the relevant heads. So, no further enhancement is possible.

6. I have duly considered the aforesaid contentions.

7. As per the medical evidence, the appellant-claimant has suffered multiple injuries. He has suffered fracture of maxilla and mandible. He also suffered fracture of shaft right and wounds on other parts of the body. He also suffered injury to his right eye. The claimant had to undergo surgical procedures. Plates were inserted to cure the fractures. He also suffered the problem of chewing the food, which was permanent in nature. The claimant also suffered disability to the extent of 50%. The learned Tribunal has awarded a compensation of ₹1,10,000/- in lump sum which is not correct procedure to assess the compensation in such cases. The learned Tribunal was required to assess the compensation separately under all the heads.

8. In the present case, the appellant-claimant has suffered multiple injuries. He remained admitted in PGI for a considerable long

period i.e. from 22.08.1999 to 25.09.1999 and also underwent surgeries. It has been fairly conceded by learned counsel for the appellant-claimant that the injured was a government employee and the medical expenses were reimbursed by the department. So, the appellant-claimant shall not be entitled for the medical and treatment charges.

9. The appellant-claimant has suffered various fractures and injuries to his right eye. He underwent surgical procedures and remained admitted in the hospital for more than one month. So, he will be entitled to ₹20,000/- towards pain and suffering. The claimant must have required some attendant during the period of his long treatment. So, he will be entitled to a sum of ₹4000/- towards attendant charges. The appellant-claimant will also be entitled to ₹4000/- towards transportation expenses and a sum of ₹5000/- towards special diet.

10. However, as the injured was a government employee. He has not led any evidence as to how much financial loss he has suffered on account of disability suffered by him, but keeping in view the fact that the claimant has suffered fracture of maxilla and mandible, he has undergone surgical procedures by inserting plates to cure the fractures, facing problem of chewing the food, which will certainly affect his physical efficiency and comforts. The injuries will also affect his enjoyment of life and amenities. So, the appellant-claimant shall also be entitled to a sum of ₹1,30,000/- on account of permanent disability and loss of amenities and enjoyment of life. In this way, the total amount of compensation payable to appellant-claimant comes to ₹1,63,000/-.

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellant-claimant is enhanced to ₹1,63,000/- from ₹1,10,000/- as awarded by the Tribunal. The appellant-claimant shall be entitled to interest on the enhanced amount of compensation from the date of filing the claim petition till realisation at the rate of 7.5% per annum. The liability to pay the enhanced amount of compensation shall remain same as determined by the learned Tribunal in the main award.

12.01.2017*sunil yadav***(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No