

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

539

FAO No.491 of 2003
Decided on : 14.11.2017

Rajesh Kumar Duggal

... Appellant

Versus

Lehna Singh and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Ms.Suman Sagar, Advocate and
Mr.Jitender Dhanda, Advocate for the appellant.
Mr.Lokesh Sharma, Advocate for
Ms.Radhika, Advocate for respondents No.2.
Mr.Neeraj Khanna, Advocate for
Mr.Ravinder Arora, Advocate for the Insurance Company.

Avneesh Jhingan, J. (Oral)

The present appeal is against the award dated 6.9.2002 passed by the Motor Accidents Claim Tribunal, Hisar (for short, 'the Tribunal').

The appellant Rajesh Kumar Dugal, aged 32 years met with a motor vehicular accident on 29.8.1997. He was traveling in a jeep bearing registration No.HR-20D/5060. The said jeep was struck by rashly and negligently driven truck bearing registration No.HNH-1736. As a result of the accident, he suffered the grievous injuries and was hospitalized.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal awarded a sum of Rs.83,500/- along with interest at the rate of 9% per annum.

The present appeal has been filed for enhancement of the said

award.

Learned counsel for the appellant argues that the appellant was shifted to N.D. Gupta Hospital, Hisar and he also remained hospitalized at Chawla Hospital for 20 days. She argues that he suffered permanent disability of 45% qua left arm. The said disability was proved by Exhibit P-4. The said disability certificate was proved by deposition of Dr. J.S. Bhatia. She further contends that the appellant had suffered multiple injuries with fracture of shaft of humerus and ribs. She further contended that as the spleen of the appellant was badly lacerated, the same was removed by Dr.N.D.Gupta. She contended that the amount awarded is on the lower side and needs to be enhanced.

Learned counsel for the respondent defended the award and resisted any enhancement.

While dealing with the cases of awarding compensation in the injury cases, the issue which has to be considered is that the claimant had suffered not by doing something wrong but he is suffering because of wrong done by someone else.

In the present case, there is a permanent disability qua limb which is 45% of the left arm. The appellant was hospitalized for 20 days and he underwent surgery for removal of spleen and for fracture also. In such circumstances, the special diet as advised by the doctor, would have been required for speedy recovery from the post surgery complication and for healing of the fracture. Type of injury and treatment ensures that an attendant would be required not only during the period of hospitalization but thereafter also. Since there was fracture in the arm, its

result is that transportation would have been required during the period of hospitalization and thereafter. The appellant would not be able to drive two wheeler for a very long time.

While dealing with the amount awarded under the pain & suffering, it has to be considered that this pain & suffering includes mental agony, trauma and the harassment suffered.

In the present case, 45% permanent disability qua the limb is there, though there is nothing on record to show what is its effect vis-a-vis functional disability. Be that as it may, the Division Bench of this Court in case of **Piara Singh and others** Vs. **Satpal Kumar and others** 2006 (4) RCR (Civil), 546 has awarded the compensation for permanent disability by multiplying the percentage of disability with Rs.2000/-. Following the same, compensation for permanent disability amount is enhanced to Rs.90,000/-.

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

As per the decision referred above and the reasons mentioned, the amounts awarded by the Tribunal are enhanced and the amount not considered by the Tribunal is awarded as per the table given below:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>By this Court</i>
1	Medical expenses	Rs.42,500/-	Rs.42,500/-
2	Doctor expenses	Rs.5000/-	Rs.5000/-
3	Pain and suffering	Rs.10,000/-	Rs.50,000/-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>By this Court</i>
4	Permanent disability	Rs.20,000/-	Rs.90,000/-
5	Special diet	Rs.2000/-	Rs.20,000/-
6	Loss of income	Rs.4000/-	Rs.4000/-
7	Attendant	-	Rs.10,000/-
	Total	Rs.83,500/-	Rs.2,21,500/-

The award dated 6.9.2002 is modified to the extent that the amount of Rs.83,500/- awarded by the Tribunal is enhanced to Rs.2,21,500/-.

The claimant 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 realization of the amount.

The appeal is partly allowed in the abovesaid terms.

14.11.2017
sd

[Avneesh Jhingan]
Judge

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No