

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

539/2

FAO No.492 of 2003
Decided on : 14.11.2017

Maha Singh

... Appellant

Versus

Lehna Singh and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Ms.Suman Sagar, Advocate for
Mr.Jitender Dhanda, Advocate for the appellant.
Mr.Lokesh Sharma, Advocate for
Ms.Radhika, Advocate for respondent 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 Maha Singh, aged 30 years met with a motor vehicular accident on 29.8.1997. He was traveling in a jeep bearing registration No.HR-200/5060. 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 multiple 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.35,000/-.

The present appeal has been filed for enhancement of the amount awarded.

Learned counsel for the appellant contends that after the accident, the appellant was taken to the Hospital and he remained

hospitalized for 10 days. She further contended that the appellant suffered 30% permanent disability on account of injuries. The disability was assessed at 10% on whole body by the Tribunal. She contended that the amount awarded is on the lower side and needs to be enhanced.

Learned counsel for the respondents argued that the Tribunal has already awarded just and equitable amount as compensation. It is further contended that no positive evidence has come on record as to what is the effect of the injuries on the functional ability of the appellant.

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 a wrong doer.

In the present case, 10% disability on the whole body is there, though there is nothing on record 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, the permanent disability amount is enhanced.

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. In view of the fact that the appellant remained hospitalized for 10 days and injuries were grievous resulting into 30% permanent disability and 10% disability qua the whole body, the amount

awarded by the tribunal for pain and suffering and special diet are on the lower side. It has not been taken into consideration that the hospitalization and grievous injuries ensure that an attendant was required at least during the period of hospitalization.

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 are 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	Medicine expenses	Rs.20,000/-	Rs.20,000/-
2	Disability	Rs.5000/-	Rs.2000 X 30 60,000
3	Pain and suffering	Rs.5000/-	Rs.15,000/-
4	Special diet	Rs.5000/-	Rs.15,000/-
5	Attendant	-	Rs.10,000/-
	Total	Rs.35,000/-	Rs.1,20,000/-

The award dated 6.9.2002 is modified to the extent that the amount of Rs.35,000/- awarded by the Tribunal is enhanced to Rs.1,20,000/-.

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