

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

FAO No. 462 of 2010

DATE OF DECISION : 04.09.2017

Parkash Singh

.... APPELLANT

Versus

Ranga Ram and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Raj Kapoor Malik, Advocate,
for the appellant.

None for respondents No.1 and 2.

Mr. Subhash Goyal, Advocate,
for respondent No.3.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal is filed against the award dated 26.08.2009 passed by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal').

2. The brief facts necessary for adjudication of the present appeal, which are not disputed by the parties, are noted below :-

On 06.11.2007, appellant Parkash Singh was driving his motor cycle bearing registration No. HR 08F-4712. He met with an accident on Polar-Siwan road near T Point, Rasulpur Mandi. A Canter bearing registration No. HR 37B-3028, which was being driven in a rash and

negligent manner dashed into the motor cycle. The appellant suffered fracture on right fore-arm, left side ribs were also fractured. For treatment, he was shifted to Saraswati Mission Hospital, Pehowa on 06.11.2007, where he remained admitted till 27.11.2007. Thereafter, he was brought to Rajindera Hospital, Patiala for treatment. He also underwent plastic surgery in the Hospital of Dr. G.P. Singh, Plastic Surgeon, Amar Hospital, Patiala.

3. A claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the claimant claiming compensation for the injuries received by him in the accident.

4. The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 15,000/- to the appellant for loss of income for six months during the period of his treatment. He was also awarded sum of ₹ 25,000/- for pain and suffering and for loss of amenities of life; ₹ 7,650/- for special diet and transportation; and ₹ 1,56,350/- for medical expenses. His permanent disability was assessed at 58% on the basis of certificate 'Ex.P140'. The appellant was awarded ₹ 1,16,000/- for disability. The Tribunal awarded ₹ 3,20,000/- along with interest at the rate of 7.5% per annum.

5. Aggrieved of the said award, the claimant filed the present appeal.

6. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

7. Learned counsel for the appellant argued that the amount of ₹ 1,16,000/- awarded for permanent disability is a lump sum amount and has

not been arrived at by applying the multiplier method. He further contended that the amount awarded under the various heads is on lower side.

8. Learned counsel for respondent No.3 contended that the appellant was not able to prove his income as farm labourer and whatever bills etc. were produced, that amount has been awarded by the Tribunal. Even the amount of ₹ 1,16,000/- awarded for permanent disability is on the higher side and calls for no enhancement.

9. After hearing learned counsel for the parties and perusal of the paper-book, it is evident that the claimant was between 50 and 55 years of age at the time of the accident and suffered permanent disability of 58%. Apart from percentage of permanent disability, his right leg and right arm were crushed due to the accident. The method adopted by the Tribunal for arriving at the compensation of ₹ 1,16,000/- for permanent disability cannot be accepted, as it is only a guess work. It has been held by Hon'ble the Apex Court that applying multiplier is the best method to quantify the just and equitable compensation.

10. Taking the undisputed facts, monthly income of the appellant is taken as ₹ 2,500/-. Disability of 58% is taken as 60%, age of the claimant is 50 years, then multiplier of 13 is applied. Hence, the amount is calculated as $2500 \times 12 \times 13 = ₹ 3,90,000/-$. For 60% disability, the amount of compensation shall be $3,90,000 \times 60/100 = ₹ 2,34,000/-$. Hence, the amount of ₹ 1,16,000/- awarded for permanent disability is enhanced to ₹ 2,34,000/-.

11. In **G. Ravindranath @ R. Chowdary Versus E. Srinivas and another**, 2013 (3) RCR (Civil) 934, the Hon'ble Apex Court held as under :-

“It is settled law that compensation in personal injury cases should be determined under the following heads:

Pecuniary damages (Special damages)

- (i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food and miscellaneous expenditure.*
- (ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:*
 - (a) Loss of earning during the period of treatment;*
 - (b) Loss of future earnings on account of permanent disability.*
- (iii) Future medical expenses.*

Non-pecuniary damages (General damages)

- (iv) Damages for pain, suffering and trauma as a consequence of the injuries.*
- (v) Loss of amenities (and/or loss of prospects of marriage).*
- (vi) Loss of expectation of life (shortening of normal longevity).*

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of

*amenities (and/or loss of prospects of marriage)
and loss of expectation of life.”*

In view of the aforesaid decisions of the Apex Court, the appellant is also entitled to compensation under various heads for pecuniary and non-pecuniary losses.

12. Keeping in view the decisions of the Apex Court and the facts and circumstances of the case, compensation for pain and suffering and loss of amenities of life is enhanced from ₹ 25,000/- to ₹ 75,000/- and the amount of ₹ 7,650/- awarded for special diet and transportation is enhanced to ₹ 25,000/-. The net effect is that the compensation awarded by the Tribunal is enhanced as under :

Head	Awarded by the Tribunal	Awarded now by this court
Pain and suffering and loss of amenities of life	₹ 25,000/-	₹ 75,000/- (enhanced by ₹ 50,000/-)
Medical expenses	₹ 1,56,350/-	₹ 1,56,350/- (no enhancement)
Special diet & transportation	₹ 7,650/-	₹ 25,000/- (enhanced by ₹ 17,350/-)
Loss of income	₹ 15,000/-	₹ 15,000/- (no enhancement)
Permanent disability	₹ 1,16,000/-	₹ 2,34,000/- (enhanced by ₹ 1,18,000/-)
Total	₹ 3,20,000/-	₹ 5,05,350/- (enhanced by ₹ 1,85,350/-)

The appellant would be entitled to interest at the rate of 6% per annum from

the date of filing of the claim petition till realisation of the amount.

13. Appeal is partly allowed, in the aforesaid terms.

September 04, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes