

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6284 of 2010 (O&M)

Date of Decision: 29.9.2017

Ajay Kumar

.....Appellant

Versus

Ranjit Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.R. Yadav, Advocate
for the appellant.

None for respondents.

AVNEESH JHINGAN, J.

The present appeal is filed against the award dated 21.1.2010 passed by the Motor Accidents Claims Tribunal, Rewari (for short 'the Tribunal').

The brief facts necessary for adjudication of the present appeal are noted below:

On 3.6.2008 Ajay Kumar aged 23 years, who was waiting for bus at Bus stand Dahina, was struck by truck bearing registration No. HR-57-A-0144. The said truck was being driven in a rash and negligent manner and at a very high speed. As a result of the accident, Ajay Kumar sustained serious multiple injuries and was taken to Civil Hospital, Rewari, for medical treatment. FIR No. 133 dated 3.6.2008 was registered at Police Station Khol.

The claim petition under Section 166 of the Motor Vehicles Act (for short 'the Act') was moved by Ajay Kumar. The Tribunal awarded

compensation of ₹ 4,31,906/- alongwith interest at the rate of 7.5% per annum.

Aggrieved of the said award, the present appeal has been filed for enhancement of the compensation.

I have heard learned counsel for the appellant and perused the paper book.

No one has appeared for the Insurance Company for the last two dates inspite of the fact that service was complete long back and the Insurance Company was putting appearance earlier. In such circumstance, keeping in view the fact the accident had occurred in the year 2008, the appeal is being decided on merits.

Learned counsel for the appellant argued that a young boy aged 23 years was crippled by this accident. Though the percentage of his disability as per Ex. P207, may be 80 % of one limb and 84 % of other limb, but for all intents and purposes he is 100% disabled. His left arm was amputated and left leg was crippled. Initially he was hospitalized at Arvind Yadav Hospital and Reasearch Center, Rewari upto 8.6.2008, but thereafter he was taken to Kailash Hospital, Behror where he remained admitted upto 13.7.2008. He had undergone two surgeries and remained admitted in hospital from 10.7.2008 to 13.7.2008 and then from 24.7.2008 to 28.7.2008. Learned counsel further argued that the Doctor Pankaj Aggarwal, Medical Officer, General Hospital, Rewari, appeared as PW6 and sworn his affidavit Ex.PW8/A. Learned counsel contended that the appellant was an agriculturist and because of injuries he is not able to carry on the agriculture work. Learned counsel further argued that the amounts awarded under various heads are on the lower side and needs to be enhanced.

Learned counsel also argued that no compensation has been awarded under certain heads by the Tribunal. The Tribunal while awarding the compensation has taken a very rigid view by only granting the medical expenses which were proved on record. The Tribunal has not taken into consideration the medical expenses of the appellant which were required for future treatment. Further the Tribunal has not considered that with these injuries the marriage prospects of the appellant have badly affected. The Tribunal ought to have considered that in such circumstances even the attendant was required even during hospitalization and thereafter also.

The contentions of learned counsel deserve acceptance.

Hon'ble the Apex Court in ***G. Ravindranath @ R. Chowdary Versus E. Srinivas and another***, 2013(12)SCC 455, 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).

12. In routine personal injury cases, compensation will be awarded only under head (i), (ii) (a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evident 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."

A perusal of the above decisions shows that in case of personal injury pecuniary damages (special damages) should be given under various heads. It was further held that non-pecuniary damages should also be compensated.

As per the above decisions, the Courts while dealing with non-fatal injuries have to award compensation for pecuniary and non-pecuniary losses. Though in such cases where a young man has lost two limbs, it is impossible to exactly assess the loss suffered. His life has been ruined and he has to live entire life with pain and suffering. The Tribunal should have awarded medical expenses keeping in view future treatment also.

Keeping in view the facts and circumstances of the case, the amounts already awarded by the Tribunal are enhanced as per the Table given below:

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Amount now awarded</i>
1	Medical expenses and hospitalization	₹ 1,71,906/-	₹ 2,50,000/-

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Amount now awarded</i>
2	Artificial limb, prothesis	Not awarded	₹ 50,000/-
3	Loss of future income	Not awarded	₹ 1,00,000/-
4	For pain and suffering	₹ 25,000/-	₹ 1,00,000/-
5	For special diet	₹ 25,000/-	₹ 35,000/-
6	On account of disability to the extent of 85%	₹ 1,70,000/-	₹ 1,70,000/-
7	loss of income	₹ 30,000/-	₹ 50,000/-
8	Transportation charges	₹ 10,000/-	₹ 25,000/-
9	Loss of marriage prospectus	Not awarded	₹ 1,00,000/-
10	For attendant	Not awarded	₹ 50,000/-
	Total	₹ 4,31,906/-	₹ 9,30,000/-

Net result is that the award dated 21.1.2010 is modified to the extent that the amount awarded by the Tribunal of ₹ 4,31,906/- is enhanced to ₹ 9,30,000/-. The appellant shall be entitled to 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.

29.09.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No