

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

440

FAO No.6047 of 2011

Decided on : 13.10.2017

Shamsher Singh

... Appellant

Versus

Sukhwinder Singh and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Ishant Cooner, Advocate
for the appellant.
Mr.Ravinder Arora, Advocate
for respondent No.3.

Avneesh Jhingan , J. (Oral)

The present appeal has been filed against the award dated 25.05.2011 passed by learned Motor Accidents Claims Tribunal, Amritsar (for short 'the Tribunal').

2. On 24.09.2009, (It is wrongly mentioned in para 1 of the award as 24.9.2001) Shamsher Singh met with an accident while he was driving his motor cycle bearing registration No.PB-02AR-7485. He was struck by a rashly and negligently driven Qualis bearing registration No.PB-08-AE-1373. As a result of the accident, he suffered grievous injuries and was taken to Amandeep Hospital where he remained hospitalized from 24.9.2009 to 1.10.2009. His left leg was amputated from thigh. FIR No.200 dated 27.9.2009 was registered at Police Station Beas. The injured was 20 years of age at the time of accident.

3. Claim petition under Section 166 of the Motor Vehicles Act (for short 'the Act') was filed for awarding compensation on account of injuries suffered by the claimant.

4. The Tribunal awarded compensation of Rs.4,19,441/- along with interest at the rate of 7.5.% per annum.

5. Aggrieved of the said award, the present appeal has been filed for enhancement of the compensation awarded by the Tribunal.

6. I have heard learned counsel for the parties, perused the paper-book and the record.

7. There is no dispute by either of the side on the income assessed by the Tribunal. Learned counsel for the appellant argued that the income of the appellant was assessed as Rs.4500/- per month and thereafter, the Tribunal made 1/3rd deduction for self expenses which has to be made only in case of death. He further argued that multiplier of 15 has been applied whereas multiplier of 18 should have been applied.

8. Learned counsel for respondent No.3 though defended the calculation, but could not raise any serious objection with regard to the multiplier and the deduction of self expenses in view of the law laid down by the Hon'ble Apex Court in case of **Smt. Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (civil) 77.**

Hence by applying the multiplier of 18, without deducting self expenses, loss of future income is recalculated as under:-

Rs.4500/- per month

50% disability (as assessed by Tribunal)

$2250 \times 12 \times 18 = 4,86,000/-$

9. Learned counsel for the appellant, has contended that the Tribunal has not awarded any amount for Prosthesis limb. He further contended that the amounts awarded under the various heads are on the lower side.

10. Learned counsel for respondent No.3 has argued that nothing has come on record that artificial limb was fitted. He further resisted any enhancement of the amount awarded under various heads.

11. 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."

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

13. Injured in the present case was a young boy of 20 years of age and his left leg was amputated from the thigh, resulting into 80% disability of limb which has been proved vide disability certificate Ex.PW-4/A. It is not only the pain and suffering, he has suffered during the treatment, there is loss of social status and his marriage prospects have suffered badly. Even though his loss of future income has been calculated but it is very difficult to assess the effect of such injury in the future life of a young boy. The Tribunal while awarding the amount under various heads has not considered that in such type of injury, transportation is required not only during the treatment but thereafter also. Pain and suffering includes the trauma and the mental agony the injured had to go through as a result of accident. Though learned counsel for respondent No.3 has opposed the awarding of any amount for prosthesis limb, as it has not been proved on record that any such limb was fitted. It would be relevant to note that it is not disputed that left leg of the claimant was amputated from thigh. The help of artificial limb or some other support is bound to be there. In such circumstances, it is deemed appropriate to award an amount of Rs.1,00,000/- to the appellant for prosthesis limb.

14. As per the law laid down by the Hon'ble Apex Court and for the reasons mentioned above, the amounts awarded by the Tribunal under some heads are enhanced and compensation is also awarded, under various other heads, not considered by Tribunal, as per table given below:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal (in Rs.)</i>	<i>Now awarded (in Rs.)</i>
1	Loss of future income	2,70,000	4,86,000
2	Loss of amenities	30000	50000
3	Loss of pain and suffering, amputation and loss of Marriage prospects	50000	2,50,000
4	Special diet	7000	15000
5	Medicine expenses	3,23,25	32325
6	Medical bills	20116	20116
7	Transportation	10000	20000
8	Prosthesis		100000
	Total	4,19,441	9,73,441

15. The award dated 25.05.2011 is modified to the extent that amount of Rs.4,19,441/-awarded by the Tribunal is enhanced to Rs.9,73,441/-. The claimant shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing the claim petition till realization of the amount.

16. The appeal is partly allowed with the above observation.

[Avneesh Jhingan]
Judge

13.10.2017
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No