

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6927 of 2011 (O&M)
Date of decision: 09.10.2017

Satpal

.... Appellant

versus

Sanjeev Kumar @ Sanju & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.S.Mamli, Advocate
for the appellant.

Mr. Ashok Kumar Khubber, Advocate
for respondent No.2.

Avneesh Jhingan, J.(Oral)

The present appeal has been filed by the claimant against the award dated 01.06.2011 passed by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short 'the Tribunal') for enhancement of compensation awarded by the Tribunal. The facts are not disputed by either of the parties. The relevant facts are that on 28.08.2005, Satpal, aged 53 years, suffered greivous injuries when rash and negligent driving truck bearing registration No.HR46-A-0385 struck a parked truck bearing registration No.HR37-A-0276. As a result of the impact, the right upper limb of Satpal was crushed. He had to undergo surgeries and also remained hospitalised. There was follow up treatment for almost more than 5 months. The claimant suffered 80% permanent whole body disability as per Ex.P-1. Dr. Mahavir Goel deposed as PW-3 and gave the details of injuries and the medical treatment. Dr. Sandeep Gupta, a member of the Board constituted to assess the disability was also examined to prove the disability certificate

Ex.P-1. The Tribunal assessed the month income as ₹ 4,500/- per month. The Tribunal awarded a total sum of ₹ 3,71,500/-, the detail of which is given below:

Sr. No.	Name of Head	Amount
1	Pain and sufferings	50,000/-
2	Loss of earnings	40,500/-
3	Special diet+attendant	30,000/-
4	Transportation charges	10,000/-
5	Medical bills	41,000/-
6	Disability	2,00,000/-
	Total	3,71,500/-

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

Learned counsel for the appellant has argued that the amount awarded by the Tribunal under various heads are on the lower side. He further contended that the disability amount granted in lump-sum by the Tribunal should have been assessed by applying the multiplier method. He further argued that future prospects were not considered by the Tribunal.

Learned counsel for respondent No.2 resisted any enhancement of the amount already awarded by the Tribunal. He argued that Insurance Company has already been exonerated on the ground that the injured was not the employee but was a gratuitous passenger.

The averments made by learned counsel for the appellant deserves acceptance.

The argument of the learned counsel for respondent No.2 cannot be accepted simply because the Insurance Company has been exonerated that in itself will not absolve the driver and the owner from the liability.

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."

From the perusal of the above decisions, it is evident that the Hon'ble Apex Court has held that in case of non-fatal injuries both pecuniary and non-pecuniary damages should be awarded.

At this stage, learned counsel for the appellant has given a proposal that keeping in view the facts of the case, if a lump-sum of ₹ 3 lakhs is awarded to him and the same is paid within a period of 8 weeks from the date of supply of the certified copy of the order, he will not press for any further enhancement.

Learned counsel for respondent No.2 submits that he is not in a position to give any such statement.

Keeping in view that in the present case the injuries resulted in 80% permanent whole body disability, considering the legal position that Hon'ble Apex Court has time and again held that multiplier method should be applied to assess the damages. Present is a fit case where the amount awarded under various heads needed enhancement. In such circumstances, the offer made by learned counsel for the appellant appears to be very fair.

The award dated 01.06.2011 is modified to the extent that apart from ₹ 3,71,500/- awarded by the Tribunal, an another lump-sum amount of ₹ 3 lakhs be paid to the claimant as enhanced compensation.

While arriving at this lump-sum amount of ₹ 3 lakhs the interest to be awarded under Section 171 of The Motor Vehicles Act, 1988 has been considered.

If the claimant is not compensated with the enhanced amount within 8 weeks from the date of supply of certified copy, the claimant will be entitled to interest @ 9% per annum from the date of filing of claim

petition till its realisation.

Accordingly, the appeal is partly allowed in the abovesaid terms.

09.10.2017

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(AVNEESH JHINGAN)
JUDGE

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| 1. Whether speaking/non-speaking? | Yes |
| 2. Whether reportable? | Yes |