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

**FAO No.999 of 2011 (O&M)**
**Date of Decision:15.09.2017**

**Munish Kumar**

**... Appellant**

**Versus**

**Gurnam Singh and another**

**... Respondents**

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. A.C. Jain, Advocate
for the appellant.

Mr. A.S. Rattniya, Advocate
for respondent No.1.

Mr. M.B. Jain, Advocate
for respondent No.2.

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**AVNEESH JHINGAN *J. (ORAL)***

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This is an appeal filed against the award dated 20.10.2010 passed by Motor Accident Claims Tribunal, Amritsar ( in short 'the Tribunal').

The facts of the present appeal are not disputed by either party.

On 13.09.2008, Munish Kumar, aged 27 years, met with an accident. While he was driving his motor cycle bearing registration No.PB-02-X-3758, he was struck by Maruti Zen bearing registration No.PB-02-AH-8454 (for short offending vehicle) from behind as a result of which, he fell down on the ground and suffered fracture in his right leg.

At that time the offending vehicle was driven in a rash and negligent manner and at a very high speed. He remained hospitalized from 13.09.2008 to 18.09.2008 for treatment and was operated upon by Dr. Ajay

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Abrol and other doctors of the Hospital. He suffered 10% permanent disability due to restricted movement of right ankle. The certificate of disability, Exhibit P-21, was produced.

The claim petition under Section 166 of Motor Vehicles Act (for short 'the Act') was filed for claiming a compensation of ₹ 20,00,000/-. The injured was helping in family business of diamonds and was also a practicing Advocate at Amritsar. In his Income Tax Return, Exhibit PW9/E regarding the assessment year 2008-2009, the income has been shown to be ₹ 1,08,000/-. The only grievance in the present appeal is that compensation of ₹ 20,000/- awarded for permanent disability and ₹ 25,000/- under other heads is on lower sides. There is no dispute with regard to actual medical expenses awarded.

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

Learned counsel for the appellant argued that the injured was a young boy, who was just beginning his career as a practicing lawyer. The injury received by him has restricted his ankle movement. His profession has been affected because of this restricted mobility.

Learned counsel for the respondent, argued that restricted movement of the ankle has not affected at all his working efficiency as he use to do labour work in the diamond business and was a practicing lawyer.

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

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)

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(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.

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In the present case, a young boy aged 27 years has been permanently disabled though only to the extent of 10% only. The amount of ₹ 20,000/- awarded for permanent disability and ₹ 25,000/- under other heads is on lower sides. Even though on record, it has not been established that as to what extent the income of the injured person would be affected the amount of compensation of ₹ 94,484/- awarded by the Tribunal is not just and equitable and the same deserves to be enhanced suitably. Accordingly, the amount of compensation is enhanced to ₹ 2,00,000/-.

The claimants shall be entitled to the enhanced amount along with interest @ 6% per annum from the date of filing the claim petition.

The award is accordingly, modified to the extent that the amount of ₹ 94,000/- awarded by the Tribunal is enhanced to ₹ 2,00,000/- along with interest @ 6% per annum.

The appeal is partly allowed in the manner aforesaid.

**(AVNEESH JHINGAN)**
**JUDGE**

September 15, 2017
*rekha*

*whether reportable* *Yes/No*
*whether speaking/non-speaking* *Yes/No*

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