

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

FAO-755-2012
Date of decision: 26.09.2017

Sunder Lal

.... Appellant

Versus

Ram Pal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Rajesh K.Moudgil, Advocate
for the appellant.

Mr. Subhash Goyal, Advocate
for Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 12.10.2011 passed by Motor Accidents Claims Tribunal, Kurukshetra (hereinafter referred to as the 'Tribunal') in a MACT Case No.159 of 2009.

In an accident, on 28.08.2009, Sunder Lal suffered injuries. He was a pillion rider on motorcycle bearing registration No.HR-05G-4900. Mahinder Singh was driving the motorcycle who lost his life in the accident. The tractor bearing registration No.HR-69A-1517 (for short, 'the offending vehicle') struck the motorcycle. As a result, the driver lost his life and pillion rider suffered injuries.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by Sunder Lal for claiming compensation for the injuries suffered by him.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.3,35,000/- along with interest of 7½ % per annum.

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

The present appeal has been filed for enhancement of compensation awarded by the Tribunal.

Learned counsel for the appellant has argued that Sunder Lal suffered serious injuries. There was a fracture of tibia right side upper part and posterior dislocation of right hip. There was fracture of lateral wall orbit right zeugmatic arch. He further argued that the medical board has assessed his permanent disability 60% with regard to the whole body. He further argued that he was operated upon and there was a implant surgery done by the doctors. An iron rod was also inserted in his leg. He further stated that the compensation awarded in various heads is on the lower side.

Learned counsel for the respondent has argued that he was not able to establish his income and the Tribunal had rightly assessed his income as Rs.4500/- per month. He said that the claim made before the Tribunal that he was selling milk, was not substantiated as no one from the office of Milk Production Society, Dhumsi was examined. He further argued that not even the detail was provided that as how many cattles he own.

The averments of the counsel for the appellant have merits and deserve acceptance.

The fact remains is that a 52 years old person had suffered permanent disability of 60% of whole body as a result of accident. The detail of injury suffered shows that it was not only that he had to undergo treatment

for long time including the operation but such injury needed medication and treatment in future also. The Tribunal has granted Rs.1,20,000/- for the disability. The Hon'ble Apex Court has time and again held that multiplier method should be adopted for assessing compensation. In the present case, the income as assessed by the Tribunal is accepted. Multiplier of 11 is applied keeping in view the age of the deceased. The monthly income is recalculated as under :-

<i>Monthly income as assessed by the Tribunal</i>	<i>Rs.4500/-</i>
60% disability	Rs.4500x60%=Rs.2700/-
Annual loss of income	2700x12=32,400
Multiplier	11
Total	Rs.3,56,400/-

The Tribunal has not awarded any amount for the attendant and even the amount awarded needs to be enhanced.

The amounts are enhanced as given in the table below :-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	<i>Compensation for disimpairment of the body</i>	<i>Rs.1,20,000/-</i>	<i>Rs.3,56,400/-</i>
2	<i>Loss of income during the treatment period</i>	<i>Rs.15,000/-</i>	<i>Rs.25,000/-</i>
3	Medical bills	Rs.1,60,000/-	Rs.1,60,000/-
4	Transportation	Rs.7,000/-	Rs.25,000/-
5	Special diet	Rs.18,000/-	Rs.25,000/-
6	Pain and suffering	Rs.15,000/-	Rs.35,000/-
7	Attendant	Not awarded	Rs.20,000/-
	Total	Rs.3,35,000/-	Rs.6,46,400/-

The said enhanced amounts have been awarded keeping in view

the nature of injuries and the fact that future treatment and medication would have been required. In such injury even the attendant was required by the injured person even during the period of treatment and thereafter.

The award dated 12.10.2011 in a MACT Case No.159 of 2009 is modified to the extent that the amount awarded by the Tribunal of Rs.3,35,000/- is enhanced to Rs.6,46,400/-.

The claimant shall be entitled to enhanced amount alongwith interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed and disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

26.09.2017

anju

Note:

1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No