

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

FAO-2532-2013 (O&M)
Date of decision: 15.3.2017

Shri Ram

...Appellant

Versus

Jasbir Snigh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Munish Mittal, Advocate for the appellant

Respondent No.1 ex-parte vide order dated 31.10.2014

Mr.Suvir Dewan, Advocate for respondent No.3

SNEH PRASHAR, J.

By way of the present appeal, appellant Shri Ram seeks enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short 'the Tribunal') vide award dated 30.11.2012 passed in MACT case No.121 of 2008 on account of the injuries suffered by him in a motor vehicular accident that took place on 22.10.2007.

The submissions made by Mr.Munish Mittal, Advocate representing the appellant and Mr.Suvir Dewan, Advocate for respondent No.3- Insurance Company have been considered and record perused.

Learned counsel for the appellant contends that due to the serious and grievous injuries sustained by the appellant during the accident he has become permanently disabled to the extent of 30% as

indicated in the disability certificate Ex.P148 proved by PW21 Dr.Dependar Singh Sindhu. He remained under treatment and confined to bed for about six months. He was a businessman and was earning Rs.30000/-per month. Due to the disability, the appellant suffered a huge loss in the business. The amount of Rs.60,000/- awarded on account of permanent disability; Rs.20,000/- for pain and suffering undergone by the appellant; Rs.30,000/- towards expenditure incurred on attendants, Rs.2000/- special diet expenses and Rs. 10,000/- incurred on transportation charges are extremely inadequate.

It is not a contentious issue that the appellant sustained grievous injuries during the accident caused by Jasbir Singh-driver of the offending car due to his rash and negligent driving. PW13 Dr.Amit Goel deposed that the appellant was admitted in JP Hospital Yamuna Nagar having fracture on left side shaft femur, fracture on lateral malleolous left side, fracture on right medial malleolous and fracture on neck of second metatarsal right side. There was degloved injury on left thigh and lacerated wound over left popliteal region of the appellant. He remained admitted in JP Hospital, Yamuna Nagar from 22.10.2007 to 30.10.2007 and subsequently in Ganga Ram Hospital for three times i.e. from 31.10.2007 to 19.11.2007, 13.12.2007 to 14.12.2007 and for one day on 10.1.2008. PW21 Dr.Dependar Singh Sindhu proved the disability certificate Ex.P148 according to which, the appellant suffered 30% permanent disability on account of left side shaft femur fracture with restricted left hip and knee joint movement and shortening of limb.

The appellant is stated to be a businessman but there is no

substantive evidence on record with regard to his occupation and income. However, taking into consideration the age, the income of the appellant is assessed as Rs.5000/- per month. The appellant was 50 years old at the time of accident, therefore, the multiplier of 13 would be applicable. The disability suffered by the appellant was 30% which includes the disability due to shortening of the leg. Because of the disability, the appellant will always face difficulty in maintaining balance of his body. Considering the law laid down by Hon'ble the Supreme Court in **Raj Kumar vs. Ajay Kumar (2011)**, **SCC 343**, the functional disability qua whole body of the appellant is taken as 20%, which will amount to loss of earning capacity to the tune of Rs.1000/- per month (20% of Rs.5000/-) i.e. Rs.12000/- per annum. The appellant was 50 years old when he met with the accident. Applying the multiplier of 13, the amount comes to Rs.1,56,000/- (12,000x 13). Accordingly, the amount awarded by learned Tribunal for the disability suffered by the appellant is enhanced to Rs.1,56,000/-.

The appellant produced medical bills and cash memos amounting to Rs.3,63,847/-, which have been allowed by learned Tribunal. Apart from it, a sum of Rs.20,000/- was allowed on account of loss of enjoyment of life; Rs.30,000/- was awarded on account of attendant charges and Rs.10,000/- was awarded under the head of transportation expenses, which are just and adequate. But

keeping in view the injuries suffered by the appellant, the hospitalisation period and the period for which he remained confined to bed, the amount awarded under the head of pain and suffering; and special diet expenses appears to be on the lower side.

Therefore, the same is enhanced as under:-

1.Pain and suffering from Rs.20,000/- to Rs.40000/-.

2.Special Diet expenses from Rs.2000 to Rs.10000/-

Accordingly, the appeal filed by the appellant-claimant is partly allowed and the award dated 30.11.2012 passed by learned Tribunal is modified. The enhanced compensation of Rs.1,24,000/- shall be paid to the appellant within 45 days from the date of receipt of certified copy of this judgment failing which he shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing the appeal till realization.

15.3.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No