

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

FAO-4642-2013
Date of decision: 21.09.2017

Mehnga Singh

.... Appellant

Versus

Khushwinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Jaideep Kaur, Advocate for
Mr.J.S.Thind, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. R.C.Kapoor, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal is filed against the award dated 01.06.2013 passed by Motor Accidents Claims Tribunal, Sirsa (hereinafter referred to as the 'Tribunal') in a MACT Case No.63-MACT of 2012.

On 09.02.2012, Mehnga Singh met with an accident while he was going on his motorcycle bearing registration No.HR-44C/4153. He was struck by an Indica car bearing registration No. HR-22D/8308 (for short, 'the offending vehicle'). As a result of accident, Mehnga Singh suffered fracture on his right leg. He had suffered a compound fracture of tibia and segmental fracture fibula and the rod was inserted in his leg.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the claimant for compensation.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.46,355 along with interest @ 7.5% per annum.

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

I have heard the learned counsel for the parties and have perused the paperbook with their able assistance.

The facts have not been disputed by either of the parties.

The only issue raised in the present appeal is that the amount awarded in various heads is on the lower side.

Learned counsel for the appellant has argued that the amount awarded under various heads needs to be enhanced as the person, aged 40 years, had suffered grievous injuries which has resulted into permanent disability. It was contended that his day to day working has been effected and he has to lead rest of his life with rod inserted in his leg.

Learned counsel for the respondent argued that there is no certificate produced on record regarding permanent disability. Moreover, the bills and receipts produced for expenses incurred on medicine etc. have been reimbursed by the Tribunal. Therefore, no enhancement is called for.

The contention of the learned counsel for appellant deserves acceptance. The amount awarded are on the lower side keeping in view the type of injury suffered.

The Hon'ble 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."

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.

As per the decision of the Hon'ble Apex Court, the amounts awarded needs to be enhanced. Since no evidence with regard to the permanent disability has been produced, therefore, the Tribunal has rightly not awarded any amount for disablement of the body. However, the amount awarded for medical expenses is also enhanced as it is practically not possible to keep bills and vouchers for every penny spent. The amounts awarded are enhanced as under the table below:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	Medical bills	Rs. 36,355/-	Rs.40,000/-
2	Mental sufferings and physical agony	Rs.4000/-	Rs.20,000/-
3	Calcium diet/Special diet	Rs.2,000/-	Rs.10,000/-
4	attendant	Rs.2,000/-	Rs.10,000/-
5	Transportation	Rs.2,000/-	Rs.10,000/-
	Total	Rs.46,355/-	Rs.90,000/-

The award dated 01.06.2013 is modified to the extent that the amount awarded by the Tribunal of Rs.46,355/- awarded is enhanced to Rs.90,000/- .

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

The appeal is partly allowed accordingly.

(AVNEESH JHINGAN)
JUDGE

21.09.2017

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Note:

1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : Yes