

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

FAO-2818-2016

Date of decision: 26.10.2017

Narinder Kumar

.... Appellant

Versus

Jagga Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Jagdish Manchanda, Advocate
for the appellant.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.2.

Avneesh Jhingan, J.

The present appeal has been preferred against the award dated 07.12.2015 passed by Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal').

On 12.08.2014, Narinder Kumar was going on his scooter Bajaj Chetak bearing registration No.CH-03-U-7016. He was struck by Maruti Swift Dzire Car bearing registration No.CH-01-AC-5201. As a result of the accident, he suffered multiple injuries including head injury. FIR No.329 dated 14.08.2014 was registered at Police Station, Sector 39, Chandigarh.

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

The Tribunal after considering the witnesses and evidence produced, awarded a sum of Rs.1,10,768/- along with interest @ 9% per

annum.

Aggrieved of the said order, the present appeal has been filed for enhancement of compensation.

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

The facts are not disputed in the present case by either of the parties.

Learned counsel for the appellant has argued that the appellant suffered multiple injuries including head injury and was hospitalised for 6 days. He contended that the head injury resulted into his having speech problem and loss of memory because of which the business carried on by him suffered. It was contended that the compensation awarded by the Tribunal for pain and suffering, special diet and attendant is on the lower side.

Learned counsel for respondent No.2 has argued that there was no permanent disability and nothing was proved on record. The medical bills, which were produced, are duly taken care of by the Tribunal. Hence, no further enhancement is called for.

In the present case, though no permanent disability has been proved by the appellant but the deposition of PW2-Dr.Jagbir Singh, Junior Assistant, Department of Neurology, PGIMR, Chandigarh has shown that the appellant suffered left fronto temporal intra cranial hemorrhage (ICH) with sulcal sub rachnoid hemorrhage and he was managed conservatively and was discharged on 16.08.2014. He further deposed that due to the

injury the patient had a speech problem and he has also some loss of memory. The patient has speech problem in the form of comprehension (understanding) and some difficulty in communication.

From the above evidence and the facts of the case, it is established that the appellant suffered multiple injuries resulting into mental agony and trauma. His business ultimately would have been effected because of neurological problem, loss of memory and problem in speech. In such circumstances, the amount awarded by the Tribunal needs to be enhanced.

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."

A perusal of the above decision shows that in case of personal injury pecuniary damages (special damages) should be compensated under various heads. It was further held that non-pecuniary damages should also be compensated.

Keeping in view the decision of the Hon'ble Apex Court and facts of the case, it is deemed appropriate that another sum of Rs.75,000/- is awarded over and above that has already been awarded by the Tribunal so as to arrive at just and equitable compensation.

The award dated 07.12.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.1,10,768/- is enhanced to Rs.1,85,768/-.

The appellant shall be entitled to the 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 in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

26.10.2017

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

2. Whether the order is reportable : Yes/No