

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

FAO No. 1506 of 2002(O&M)

Date of Decision: August 01 , 2018.

Kuldip Singh

..... APPELLANT (s)

Versus

Harjit Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. K.S.Boparai, Advocate
for the appellant.

Mr. Vinod Chaudhri, Advocate
for respondent No.3 – Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been preferred by the appellant for enhancement of compensation awarded to him vide award dated 27.08.2001 passed by the learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by him in the motor vehicle accident.

Brief facts necessary for adjudication of the case are that the appellant, aged 40 years, was involved in a motor vehicle accident on

19.05.1998 when he was proceeding to Doraha from his village Jargari on his scooter bearing registration number CHQ-4965. The appellant was driving his scooter on his correct side of the road at a normal speed. When he reached near a petrol pump at Doraha, the offending Tempo TATA-407 bearing registration number PB-10X-9719 being driven at fast speed in a rash and negligent manner by respondent-Harjit Singh @ Harjit Kumar struck against the scooter of the appellant from his backside. The appellant received multiple grievous injuries. He was taken to the hospital. The appellant remained admitted in DMC Hospital, Ludhiana from 19.05.1998 to 13.06.1998. Thereafter he was shifted to Sutlej Hospital on 13.06.1998 where he remained admitted till 27.06.1998. The appellant was subjected to multiple operations thereafter as well. The appellant suffered 100% disability after the accident as reflected in the disability certificate (Ex.P10/A).

Claim petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking compensation on account of the injuries and disability suffered by him. The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to rash and negligent driving of Tempo TATA-407 bearing registration No.PB-10-X-9719 driven by respondent No.1-Harjit Singh. This finding of the learned Tribunal has attained finality.

The learned Tribunal concluded that the appellant sustained injuries in this accident leading to 100% disability. Multiplier of 14 was applied. A total amount of ₹6,10,000/- including the hospitalization and medical expenses of ₹86,000/- was awarded by the learned Tribunal as compensation. The present appeal has been filed seeking enhancement of the

aforesaid compensation.

Learned counsel for the appellant submits that due to the injury of the spine received by the claimant/appellant, he has been rendered 100% disabled. He is suffering from traumatic fracture, dorso lumber spine with complete paraplegia and he is unable to carry out his routine chores on his own. He is completely dependant for the same as the lower portion of his body including lower limbs are rendered useless. Learned counsel for the appellant has placed reliance on the judgment of the Hon'ble Supreme Court in **Jagdish v. Mohan**, 2013 (2) RCR(Civil) 308. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3 – Insurance Company submits that the compensation awarded by the learned Tribunal is reasonable and as per the evidence on record. It is however not denied that the claimant suffers from 100% disability as he is rendered paraplegic.

I have heard learned counsel for the parties and have gone through the file.

As noted above, there is no dispute regarding the injuries suffered by the appellant in the accident. The appellant suffered injuries on his spine as well as other multiple grievous injuries. He remained admitted at DMC Hospital, Ludhiana from 19.05.1998 to 13.06.1998. Thereafter he was shifted to Sutlej Hospital on 13.06.1998 where he remained till 27.06.1998. The appellant was subjected to multiple operations thereafter as well. He lost control over his bladder movement as well. The appellant is unable to walk, sit or even change his side on his own. He has been declared to be suffering from 100% disability. PW10 Dr. Y.C.Markan, CMO, Civil Hospital, Ludhiana

proved the disability certificate, Ex.P10/A dated 08.09.1999. The position admittedly is no better as on date as there was no scope for improvement in the appellant's condition.

Keeping in view the guidelines laid down by the Hon'ble Supreme Court in Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765 compensation awarded to the appellant deserves to be enhanced. There is no dispute regarding his income to be ₹3,000/- per month. While affording an increase of 40% in the income of the appellant on account of loss of future income, the amount comes to ₹4,200/- [(3000 + (3000 x 40%)] per month i.e., ₹50,400/- per annum. The appellant is admittedly 40 years old, therefore, multiplier of 15 is to be applied. The loss of earnings, thus, comes to ₹7,56,000/- [50,400x15].

On account of pain and sufferings, the appellant is held entitled to a sum of ₹1,00,000/-. Actual medical expenses of ₹86,126/- as ordered by the learned Tribunal is maintained. Keeping in view the admitted medical condition of the appellant, he is also entitled to a sum of ₹1,50,000/- for future medical expenses. ₹50,000/- each is awarded on account of loss of amenities and towards expenses of an attendant who is obviously needed at all times. Compensation on account of special diet etc. is assessed as ₹50,000/-.

Appellant is, thus, entitled to compensation detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of earnings	₹7,56,000
2.	Pain and sufferings	₹1,00,000
3.	Actual medical expenses	₹86,126
4.	Future medical expenses	₹1,50,000
5.	Expenses of attendant	₹50,000

6.	Loss of amenities	₹50,000
7.	Special diet	₹50,000
Grand Total		₹12,42,126/-

Amount already awarded by the Tribunal to the claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

August 01 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No