

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO NO.1440 of 1992 (O&M)
Date of Order: 28.09.2018

Baljit Singh

..Appellant

Versus

Mohan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.K. Mahajan, Advocate,
for the appellant.

Mr. R.K.Bashamboo, Advocate,
for the respondent-Insurance Company.

ANIL KSHETARPAL, J(Oral)

Injured-claimant is in the appeal seeking enhancement of the compensation.

In a motor vehicular accident, which took place on 12.10.1990, injured suffered injuries which resulted into damage of the right kidney which had to be removed. The appellant was 21 years of age at that time, unmarried, working as surveyor after qualifying Diploma in Mechanical Engineering. It is claimed that he was in private employment, drawing salary of Rs.1500/- per month. Appellant had to be hospitalized for a period of 12 days, proof of hospital expenses to the tune of Rs.14,000/- on file has been produced.

Learned counsel for the appellant submitted that for loss of one kidney, appellant become more susceptible to the infections and risk to the life increased because there was only one functional kidney left. He

submitted that the doctor who has been examined has also deposed that there is increase in risk to the life of the appellant. Hence, learned counsel claim that the amount of Rs.40,000/- awarded is less.

Learned counsel for the appellant further submitted that on account of loss of income only Rs.4500/- has been awarded which is only takes care of 3 months loss of income but no amount has been awarded for future loss of income due to decreased efficiency in working as well as quality life. He further submitted that on account of medical expenses the Motor Accident Claims Tribunal has only awarded Rs.16,000/- without taking into consideration that since there is increase in risk to life permanently, therefore, in future also there would be some additional expenses.

Learned counsel for the respondent-Insurance company contested the arguments and submitted that there is no evidence that any future medical expenses have been borne by the appellant during the pendency of the claim petition or this appeal. He further submitted that accident took place in the year 1990 and the case cannot be decided by applying same standards of the year 2018.

No doubt, the accident took place in the year 1990 and the amount has to be awarded keeping in view the date of accident but loss of kidney particularly of a person who was only 21 years of age at the time of accident, unmarried, is a big loss. There is an increase risk to the life, which is permanent in nature.

Keeping in view the aforesaid facts, this court is of the opinion that for the loss of one right kidney, the Motor Accident Claims Tribunal erred in awarding only Rs.14,000/-. It should not be less than Rs.1,00,000/-.

Under the head of “Loss of Income”, the appellant shall be entitled to Rs.20,000/- in place of Rs.4500/- as there would be some loss of income in the future also apart from period of recuperation. On account of medical expenses, the appellant is required to be granted some additional amount, which is increased from Rs.16,000/- to Rs.30,000/-.

In view of the aforesaid, the amount is re-worked as under:-

<i>Heads</i>	<i>Compensation awarded by MACT</i>	<i>Compensation awarded by High Court</i>
Special Diet	Rs.3000/-	Rs.3000/-
Compensation for help of attendance by friends and relatives	Rs.1500/-	Rs.1500/-
Medical Expenses	Rs.16000/-	Rs.30000/-
Loss of Income	Rs.4500/-	Rs.20000/-
Loss for removal of one right kidney	Rs.40000/-	Rs.100000/-
Pain and suffering	Rs.15000/-	Rs.15000/-
	Rs.80000/-	1,69,500/-
Already awarded by Motor Accident Claims Tribunal		(-) 80,000/-
Enhanced Compensation		Rs.89,500/-
Compensation Awarded by the High Court : Rs.1,69,500-00		
(-) Compensation Awarded by the MACT : Rs. 80,000-00		
Enhanced Compensation : Rs. 89,500-00		

In view of the aforesaid, the appeal is allowed. The enhanced amount i.e. Rs.89,500/- shall carry interest @ 7.5% from the date of filing of the claim petition till its realization.

September 28, 2018

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No