

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

FAO No.324 of 1991 (O&M)

Date of Decision: March 27, 2018

Mohinder Singh

...Appellant

Versus

Hardev Singh and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.G.S.Punia, Advocate for the appellant.

Mr.Madhu Sharma, Advocate
for respondent No.3 – Insurer.

HARINDER SINGH SIDHU, J.

This appeal is filed by the injured - claimant for enhancement of compensation, as awarded by the Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') vide its award dated 12.9.1990.

Brief facts as disclosed in the claim petition are that on 13.2.1988 in the area of Sherpur Chowk on Ludhiana-Bagowal road, a vehicular accident took place involving Truck No.DIL-2335 (herein for short 'the offending vehicle'), wherein, Mohinder Singh – appellant, aged 48 years, suffered multiple injuries. He was shifted to Mohan Dai Oswal Memorial Hospital, Ludhiana. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle.

On a claim petition having been filed by the injured – appellant, the Tribunal awarded compensation of Rs.2,00,000/- along with interest.

Feeling dissatisfied with the quantum of compensation, the injured

- claimant is before this Court.

It is argued on behalf of the appellant that he had been operated upon eight times and it has also come in evidence that such operations are required from time to time regarding the problems of urine and stool. Contending that the compensation of Rs.2 lacs awarded by the Tribunal is on lower side, it is stated that the appellant has no control over urine and stool after the accident. He has also lost the capacity to earn his livelihood.

I have heard Ld. Counsel for the parties and have gone through the paper-book with their assistance.

First of all, coming to the injuries suffered by the appellant in the accident, Dr.Anil Mittal, Medical Officer, Primary Health Centre Sudhar (AW4), who remained Surgical Specialist in Mohan Dai Oswal Hospital, Ludhiana from February, 1986 to September, 1988, disclosed the following injuries on the person of the appellant:-

1. Fracture of the bony pelvis
2. Fracture of shaft femus (left side)
3. Urethrel disruption
4. Rectal tear
5. Urinary Bladder contusion
6. Hemoperitoneium and retroperitoneal heametoma

Dr.Mittal was the part of the team, which performed operation of abdomen of the appellant. He also operated the claimant for removing the pus of left hip region.

The injured – appellant himself appeared before the Tribunal as AW7 and his statement has been taken note of by the Tribunal as follows:-

“Mohinder Singh, claimant (AW7) has testified that he remained admitted in the hospital for a period of three moths

initially and thereafter he had to take bed rests and he was again admitted in the same hospital for a period of one month followed by another bed rest for two months and was again admitted for treatment in the hospital for a period of four months followed by bed rest for two months and was again re-admitted in the hospital for 4-5 days for medical treatment of the injuries. And that he was operated upon four times on account of the fracture of the left thigh and twice his abdomen had to be operated upon non account of the urinary trouble and on two other occasions he had to undergo anal operation and at present he has no control over urine and faecal and passed on the stool and urine without any control and could not walk about without crutches and was unable to lift any weight and could not stand for long intervals without crutches. And that from the time of the accident till date (the statement of the claimant was recorded on 2.8.90) he has not been able to attend to his work.”

The claimant also stated that he was prescribed special diet which he took at the initial stages and thereafter he stopped taking the same on account of the paucity of funds and had to keep an attendant to attend him in that hospital.

AW8 Dr.Ritu Raj Singh, of Mohan Dai Oswal Hospital, Ludhiana deposed before the Tribunal that the claimant – injured was admitted in the hospital on 13.2.1988 with multiple injuries in a vehicular accident and as per the records, he was operated upon about eight times for fracture femur, fracture pelvis, ruptured urethra, ruptured colon and posteria meaentric tear. She further testified that the claimant last attended the hospital on 30.6.1989 and his disability in the leg could not be cured by one or more major surgery. In her cross-examination, she disclosed that the appellant needed operations from time to time regarding the problems of urine and stool.

that he had been working as a Fitter in Veera Industries, which makes auto parts. AW1 Krishan Kumar, Accountant in the said Industry stated that as per the Attendance Register, brought by him before the Tribunal, the appellant had attended his work in the factory till 13.2.1988 and thereafter, he was marked absent This witness also testified that in January, 1988, the claimant – appellant was paid Rs.925/- as his total emoluments and that the worker who worked over-time was paid separately at double the rate of the wages.

Considering the above medical evidence, it is evident that the claimant – appellant has been rendered crippled due to the injuries suffered in the accident. The medical evidence further makes it clear that he cannot resume his work of Fitter, as he has lost control over urine and stool. He cannot stand for long without the help of crutches. He is also unable to lift any weight. His capability to resume work is also reflected by his own statement, wherein, in August, 1990, he stated that he had not been able to attend his work after the accident in February, 1988. It has also come in evidence that he is still under treatment and needed operations time and again because of his urine and stool problems. In other words, the appellant has been rendered totally incapable to earn his livelihood due to the injuries suffered in the accident, rather, he is need to spend money time and again for undergoing surgeries.

In the above facts and circumstances, the compensation of Rs.2,00,000/- appears to be grossly inadequate and needs to be enhanced.

Hence, the compensation is re-assessed as under:-

Sr.No.	Heads	Calculation (In Rs.)
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(i)	Monthly Income	925/-
(ii)	25% of above (i) to be added as future prospects (injured aged 48 yrs.)	$925+(925\times 25/100)$ = 1156.25
(iii)	Loss of income after multiplier of 13 is applied	$1156.25\times 12\times 13=$ 1,80,375/-
(iv)	Towards medical expenses	49,370/-
(v)	Towards loss of amenities of life	1,00,000/-
(vi)	Towards future medical expenses	1,00,000/-
(vii)	Towards pain and sufferings	1,00,000/-
(viii)	Attendant charges	25,000/-
	TOTAL	5,54,745/-

Hence, the appeal is allowed. The Award of the Tribunal is modified to the extent that the appellant is held entitled to compensation of Rs.554745/-, that is, Rs.3,54,,745/- (454745-200000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

March 27, 2018

(**HARINDER SINGH SIDHU**)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No