IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **FAO No. 282 of 2003(O&M)**

Date of Decision: September 04 , 2018.

Ved Pal ..... APPELLANT(s)

Versus

Shri Ram and others ..... RESPONDENT (s)

2. **FAO No. 284 of 2014(O&M)**.

Raj Bala ..... APPELLANT(s)

Versus

Shri Ram and others ..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anil Ghanghas, Advocate
for the appellants.

Mr. Rajesh K.Sheoran, Advocate for
Mr. Vivek K.Thakur, Advocate
for respondents No.1 and 2.

Mr. Pardeep Goyal, Advocate
for respondent No.3 – Insurance Company.

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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?

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LISA GILL, J.

FAO No.282 of 2003 (Ved Pal v. Shri Ram and others) and FAO No.284 of 2003 (Raj Bala v. Shri Ram and others) are taken up together for decision as both of them arise out of the common impugned award dated

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19.10.2002. The appellants in both the appeals seek enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Bhiwani (for short, the 'Tribunal') vide impugned award dated 19.10.2002.

Brief facts necessary for adjudication of the case are that two separate petitions under Section 166 of Motor Vehicles Act were preferred by the appellants seeking compensation on account of the injuries and disability suffered by them in a motor vehicle accident, which took place on 01.06.1999. It was averred that the claimant-Ved Pal (appellant in FAO No.282 of 2003) was proceeding on his scooter No.HR-19A-0743 alongwith his wife-Raj Bala (appellant in FAO No.284 of 2003) from Bhiwani to Charkhi Dadri. When they reached in the area of village Nimariwali, a truck bearing registration No.HR-47-1987, being driven by respondent No.1-Shri Ram in a rash and negligent manner, came from Dadri side and struck against the scooter of the claimant. As a result thereof, both the appellants suffered grievous injuries. The injured were taken to PGIMS, Rohtak and thereafter, Base Hospital and R.R. Hospital, Delhi for treatment. FIR No.194 dated 02.06.1999 was registered at Police Station Sadar Bhiwani against respondent No.1. The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending truck bearing registration No.HR-47-1987 by respondent No.1-Shri Ram. This finding of the learned Tribunal has attained finality.

The learned Tribunal concluded that the appellant-Ved Pal sustained injuries in this accident leading to 100% disability. Loss of future income of the appellant was assessed as ₹1,200/- per month. Deduction of 1/3rd was effected and multiplier of 16 was applied. Future loss of income was thus assessed as

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₹1,53,600/-. A sum of ₹5,000/- towards transportation and ₹30,000/- on account of pain & sufferings were awarded. ₹80,000/- on account of medical expenses borne by the appellant were awarded, besides, ₹5,000/- towards future medical treatment. A total sum of ₹2,73,600/- was awarded to the injured/appellant-Ved Pal by the learned Tribunal as compensation.

In claim petition filed by the appellant-Raj Bala, the learned Tribunal awarded a total sum of ₹2,54,000/- as compensation on account of the injuries and disability suffered by her. It was concluded that she had acquired permanent disability to the extent of 80%. Loss of future income of the appellant was assessed as ₹750/- per month i.e., ₹9,000/- per annum. Multiplier of 16 was applied. Future loss of income was thus assessed as ₹1,44,000/-. ₹5,000/- each towards transportation and special diet as well as ₹25,000/- on account of pain & sufferings were awarded. ₹60,000/- on account of medical expenses borne by the appellant were awarded, besides, ₹15,000/- towards future medical treatment.

Aggrieved therefrom, the present appeals have been preferred by both the appellants seeking enhancement of the compensation awarded.

Learned counsel for the appellants argues that the appellant-Ved Pal was drawing a salary of ₹6,077/- per month at the time of the accident as per the statement of account placed on record. It is further submitted that 40% increase in income be afforded to the appellants. Learned counsel for the appellants further submits that income of the appellant-Raj Bala (wife of appellant-Ved Pal) be assessed in a justified manner and compensation be awarded accordingly. Meagre amounts have been awarded to both the appellants on account of pain and suffering, loss of amenities and future medical expenses. It is thus prayed

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that compensation awarded to the appellants be enhanced.

Learned counsel for respondent No.3 – Insurance Company however 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-Ved Pal suffers from 100% disability and the claimant-Raj Bala has incurred 80% disability.

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

There is no dispute regarding the injuries suffered by the appellants in the accident in question being caused by the rash and negligent act of respondent No.1 – Shri Ram neither is there a dispute regarding liability of the Insurance Company in this case.

As regards the claim petition filed by the appellant-Ved Pal, he was admittedly serving the Indian Army, drawing a salary of ₹6,077/- per month at the relevant time. Disability of the appellant-Ved Pal was assessed as 100% in relation to his whole body. PW6 Dr. S.C.Batra, has proved the disability certificate (Ex.P4). Ved Pal remained admitted in hospital for over six months, five operations were carried out at R.R. Hospital at Delhi and four at Base Hospital, Delhi. Compensation to the appellant-Ved Pal is required to be worked out in terms of 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***. Disability suffered by the claimant is proved to be 100% in relation to his body and the disability is permanent. Functional disability of the appellant-Ved Pal is, therefore, clearly 100%. Therefore, loss of income is

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assessed as ₹6,077/- per month.

While affording an increase of 40% in income of the appellant on account of loss of future income, the amount comes to [(6077 + (6077 **x** 40%)] = ₹8,508/- per month i.e., ₹1,02,096/- per annum. Age of the injured/appellant was 39 years as on the date of the accident, therefore, multiplier of 15 is to be applied. Loss of earnings is, thus, assessed as **₹15,31,440/-** [1,02,096 **x** 15].

The appellant-Ved Pal is held entitled to a sum of ₹75,000/- each on account of pain and sufferings as well as loss of amenities. Actual medical expenses of ₹80,000/- and ₹5,000/- on account of transportation as ordered by the learned Tribunal are maintained. Keeping in view the admitted medical condition of the appellant, he is also entitled to a sum of ₹50,000/- for future medical expenses. ₹15,000/- is awarded on account of special diet.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Loss of earnings	₹15,31,440
2.	Pain and sufferings	₹75,000
3.	Loss of amenities	₹75,000
4.	Actual medical expenses	₹80,000
5.	Future medical expenses	₹50,000
6.	Transportation	₹5,000
7.	Special diet	₹15,000
	Grand Total	₹18,31,440/-

As regards the claim petition filed by the appellant-Raj Bala, it is proved on record that right leg of Raj Bala was amputated from the thigh. She suffered permanent disability to the extent of 80% as per Disability Certificate (Ex.P2), which has been proved by PW5 Dr. S.C.Batra. Her functional disability

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cannot be assessed as anything less than 80%. Her income is assessed as ₹2,025/- per month (1/3rd of ₹6077 i.e. income of her husband-Ved Pal). Compensation to the appellant-Raj Bala is also required to be worked out as per the guidelines laid down by the Hon'ble Supreme Court in **Syed Sadiq's case** (supra). Accordingly, loss of income is assessed as [2025 x 80%] = ₹1,620/- 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 [(1620 + (1620 **x** 40%)] = ₹2,268/- per month i.e., ₹27,216/- per annum. Age of the appellant was 32 years as on the date of the accident, therefore, multiplier of 16 is to be applied. Loss of earnings is, thus, assessed as **₹4,35,456/-** [27,216 **x** 16].

The appellant-Raj Bala is held entitled to a sum of ₹75,000/- each on account of pain and sufferings as well as loss of amenities. ₹60,000/-, ₹5,000/- and ₹15,000/- towards actual medical expenses, transportation and special diet, respectively, as ordered by the learned Tribunal are maintained. Keeping in view the admitted medical condition of the appellant, she is entitled to a sum of ₹50,000/- for future medical expenses.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Loss of earnings	₹4,35,456
2.	Pain and sufferings	₹75,000
3.	Loss of amenities	₹75,000
4.	Actual medical expenses	₹60,000
5.	Future medical expenses	₹50,000
6.	Transportation	₹5,000
7.	Special diet	₹15,000
	Grand Total	₹7,15,456/-

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Amount already awarded by the Tribunal to the appellants/claimants under various heads shall stand deducted from the amount of compensation reworked as above. Claimants 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, both the appeals are disposed of.

(**LISA GILL**)
JUDGE

September 04 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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