

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

FAO No.1540 of 1995 (O&M)

Date of Decision: 10.01.2018

Gurinder Singh

. . . Appellant/claimant

Versus

Bhupinder Singh and others

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Rupinder K. Khosla, Senior Advocate with  
Mr. Sarvesh Malik, Advocate  
for the appellant/claimant.

Mr. Vinod Chaudhri, Advocate  
for respondent No.4-Insurance Company.

Presence of remaining respondents dispensed with  
vide order dated 21.11.2017.

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**Ramendra Jain, J. (Oral)**

In the instant appeal, the appellant-claimant has sought enhancement of compensation from ₹ 2,50,000/- to ₹ 20,00,000/- alongwith interest at 18% per annum from the date of accident till realization by way of modification of impugned award of the Motor Accident Claim Tribunal, Kurukshetra ( for short ‘the Tribunal’) dated 01.02.1995.

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On 17<sup>th</sup> October, 1993, the appellant as student of 10+2, while going on school tour from Chandigarh to Jodhpur alongwith school teachers in a bus, suffered multiple grievous injuries on his person.

Infact, the bus driver had stopped the bus near a temple at Shahbad for a short while and when he started it to resume onward journey to Jodhpur, the conductor, who was on the roof of the bus to collect tools, on coming into contact with high voltage wires got electrocuted and fell down on the roof of the bus. Electric shock to the conductor resulted in thundering sound, on account of which the driver of the bus started the same hurriedly in a rash and negligent manner. At that moment, one foot of the appellant was on the foothold and other was on ground. As a result thereof, the appellant fell down and his left leg got crushed under tyre of bus and he also suffered injury in his right leg.

The Tribunal after completing necessary formalities of taking defence of the respondents and recording evidence of both the sides, granted compensation of ₹ 2,50,000/- to the appellant, vide impugned award dated 01.02.1995 as detailed hereunder:-

| <b>Sr.No.</b> | <b>Particulars</b>                                                                                                 | <b>Amount (in ₹ )</b> |
|---------------|--------------------------------------------------------------------------------------------------------------------|-----------------------|
| i)            | For Mental and physical agony                                                                                      | 50,000.00             |
| ii)           | For expenses already incurred on medial treatment, special diet, transport, services of special attendant etc; and | 1,50,000.00           |
| iii)          | Previous and future treatment and fixation of artificial limb                                                      | 50,000.00             |

Learned counsel for the appellant-claimant, relying upon

**‘Raj Kumar v. Ajay Kumar and anothers (SC) 2011 ACJ 1’** and **‘Sanjay**

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**Kumar v. Ashok Kumar and another (SC) 2014 (1) R.C.R. (Civil) 875'**

contended that the Tribunal has erred in not awarding any compensation to the appellant towards (i) loss of earnings; (ii) loss of future earnings on account of permanent disability; (iii) compensation towards permanent disability to the extent of 40% in the left leg and 30% in the right leg; (iv) loss of amenities including loss of prospects of marriage; and (v) loss of expectation of life. That apart, the future medical expenses as well as compensation towards mental and physical agony granted by the Tribunal is also on quite lower side.

On the other hand, learned counsel for the Insurance Company refuting the above submissions of learned counsel for the appellant pleaded the legality of the impugned award.

I have given conscious to the submissions made by both the sides.

It is not disputed that the appellant was a student of 10+2 class at the time of accident. According to the findings of the Tribunal, the appellant was a meritorious student and regularly participating in the cultural and curricular activities.

Considering this aspect of the matter, it can be presumed that the appellant must have an asset to his parents, family and the country after completing his educational qualifications. Since on the date of accident, the appellant was not earning, therefore, to calculate compensation towards above heads some guess work has to be applied.

The appellant suffered permanent disability of 40% to the left leg and 30% to the right leg. Generally, by and large, ₹ 2,000/- per

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percent towards permanent disability is granted by the Courts/Tribunal. Since the total disability of 70% (40% to the left leg and 30% to the right leg) is suffered by the appellant towards his legs only, therefore, the same cannot be termed as permanent disability towards the whole body. Considering this aspect of the matter, the appellant is awarded ₹ 1500/- per percent disability as compensation which comes out to ₹ 1,05,000/- (70 x ₹ 1500/-) towards 70% permanent disability of his legs only.

On account of above disablement, the appellant has also suffered disfigurement of his body and loss of amenities. His marriage prospects have also been considerably diminished, besides loss of expectation of life. That apart, the earning capacity of the appellant has also weakened on account of aforesaid permanent disablement suffered by him.

After completion of his educational qualification, the appellant must have become engineer, doctor, lawyer or a businessman. Taking into account the employment scenario in the year 1993, when the appellant became partial permanently disabled, the monthly income of the appellant is taken to be ₹ 10,000/- per month i.e. ₹ 1,20,000/- per annum and considering the disablement of the appellant to the extent of 70% towards his legs, in view of authority '*Sarla Verma and others V. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77*', 25% of the aforesaid income is taken towards loss of future earning to the appellant and applying the multiplier of 18, the total compensation comes to ₹ 5,40,000/- ( 25% of ₹ 1,20,000 = ₹ 30000/- x 18) towards loss of future earnings.

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That apart, relying upon '*Sanjay Kumar*'s case' (supra), the appellant is also awarded a sum of ₹ 75,000/- towards marriage prospects and ₹ 1,00,000/- towards loss of amenities, besides ₹ 25,000/- towards costs of litigation expenses.

The award dated 01.02.1995 is modified to the above stated effect and accordingly, the amount of ₹ 2,50,000/- awarded by the Tribunal is enhanced to ₹ 7,40,000/- (₹ 5,40,000 + 75,000/- + 1,00,000/- + 25,000 = ₹ 7,40,000/-).

The appellant shall be entitled to the enhanced compensation of ₹ 4,90,000/-, after deducting the amount of compensation of ₹ 2,50,000/- already paid to him by the Tribunal along with interest @ 9% per annum from the date of filing of claim petition till the date of its realization.

The appeal is disposed of accordingly.

[ **RAMENDRA JAIN** ]  
JUDGE

January 10, 2018  
*Sachin/harish*

|                           |   |        |
|---------------------------|---|--------|
| Whether Speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |