

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

**F.A.O. No.1132 of 2001(O&M)
Date of Decision: 11.10.2018**

Atul Duggal

.....Appellant.

Versus

Tejbant Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms.Swati Verma, Advocate
for Mr. Sharad Mehra, Advocate
for the appellant.

Mr.Gopal Mittal, Advocate
for respondent no.3..

LISA GILL, J.

This appeal has been preferred by the appellant for enhancement of compensation awarded to him vide award dated 31.01.2001 passed by the learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by him in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that a 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 in a motor vehicle accident, which took place on 12.11.1997. It has been averred that on 12.11.1997, the claimant was coming from the house of his uncle situated in Kanchan Colony on Pakhowal Road, Ludhiana on his motorcycle bearing registration No. PB-10-Q-3480 and

Harpreet Singh was pillion rider. When the claimant reached at the crossing of the link road near Canal, a four-wheeler, make Tata Sumo, bearing registration no. HR-01-E-9933 came from link road at a very high speed and hit the motorcycle of the claimant. As a result thereof, the claimant suffered severe grievous injuries and fractures. The accident had taken place due to the rash and negligent driving of respondent no.1-Tejbant Singh. FIR No. 254 dated 131.11.1997 (Ex.PW4/A), under Sections 279, 337, 338, 427 IPC was registered at Police Station Sarabha Nagar, Ludhiana, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Tejbant Singh. The said finding of the learned tribunal has attained finality.

The learned tribunal awarded a total sum of ₹1,70,000/- on account of injuries received by the appellant, which is detailed as under:-

1.	Medical bills and medicines etc. purchased from outside	₹1,25,000/-
2.	Mental Pain and suffering	₹10,000/-
3.	Special diet and travel charges	₹10,000/-
4.	On account of disability, business and other future prospects	₹25,000/-
	Total	₹1,70,000/-

The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant argues that the appellant was a young man of 22 years when he suffered injuries, which would necessarily scar him for life. He was in the process of setting up his own business of manufacturing of textile. Machines etc., had been installed and he was to

start with his work. Moreover, compensation for loss of amenities, marriage prospects etc., has not been awarded to the appellant. It is thus prayed that compensation awarded to be appellant 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.

I have heard learned counsel for the parties and have gone through the file with their able assistance.

It is not in dispute that the appellant was 22 years old at the time of accident, which took place on 12.11.1997. The appellant was taken to Sutlej Hospital, Sarabha Nagar, Ludhiana, where he remained admitted from 12.11.1997 to 25.11.1997. One steel rod was inserted in his right thigh and another one in his lower leg and a nail in his ankle. After his discharge from the hospital, some infection developed due to the injuries and he was again admitted in DMC, Hospital, Ludhiana from 16.08.1998 to 19.08.1998. Permanent disability of 25% qua the limb was suffered by the appellant as proved by the disability certificate Ex.PW2/A, which was duly proved by PW-4-Dr. Navjot Singh.

Keeping in view the facts and circumstances of the case, functional disability of the appellant cannot be less than 15% and is so assessed. Keeping in view the facts and circumstances as well as the evidence on record, it is considered appropriate to assess the income of the appellant as ₹2000/- per month. It is relevant to note that even a daily wage at that point of time would be able to earn approximately the said amount. The claimant was 22 years old at the time of the accident. Increase in income

on account of future prospects at the rate of 40% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R. (Civil) 1009**. In terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**, multiplier of 18 is to be applied keeping in view the age of the injured-appellant i.e. 22 years at the time of the accident. Sum of ₹1,25,000/- awarded by the learned Tribunal on account of medical expenses and a sum of ₹10,000/- on account of special diet and travel charges, is maintained. However, the appellant is entitled to a sum of ₹50,000/- instead of ₹10,000/- on account of pain and suffering. Another sum of ₹50,000/- is awarded on account of loss of amenities. The appellant was an unmarried young man of 22 years of age and sum of ₹25,000/- is awarded on account of loss of marriage prospects. A sum of ₹10,000/- is awarded towards attendant charges.

Keeping in view the parameters referred to hereinbefore and in view of the decision of the Hon'ble Supreme Court in **Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765**, compensation towards the claimant on account of injuries received by him is thus re-worked as under:-

1.	Loss of income	₹2000/- p.m
2.	Total income after addition of future prospects at the rate of 40%	₹2000/- (₹2000 + ₹800/-) i.e. ₹2800/-
3.	Loss of income on account of 15% disability	₹2800/- x 12 x 18 x 15% = ₹90,720/-
4.	Loss of pain and suffering	₹50,000/-
5.	Loss of amenities	₹50,000/-

6.	Loss of marriage prospect	₹25,000/-
7.	Medical expenses	₹1,25,000/-
8.	Attendant charges	₹10,000/-
9	Special diet, travel charges etc.	₹10,000/-
	Total Compensation =	₹3,60,720/-

Claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimant shall stand deducted.

Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimant, shall enure.

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

11.10.2018
s.khan

[LISA GILL]
Judge

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