

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2446 of 2001 (O&M)
Date of decision:07.09.2018.

Sajjan Singh

...Appellant

Versus

Umed and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.S. Sangwan, Advocate
for the appellant.

Mr. R.N. Singal, Advocate
for respondent No.3/Insurance Company

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to him by the learned Motor Accident Claims Tribunal, Bhiwani ('Tribunal' for short) vide award dated 13.02.2001 on account of the injuries and disability suffered by him in a motor vehicle accident which took place on 18.01.1999.

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 18.01.1999. The appellant received multiple injuries and was admitted to Civil Hospital, Bhiwani for treatment. FIR No.29 dated 19.01.1999 was registered against respondent No.1-driver of the offending vehicle at Police Station City Bhiwani.

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 vehicle by respondent No.1. There is no dispute regarding the above said finding of the learned Tribunal, which has attained finality.

The learned Tribunal concluded that the appellant sustained injuries on both his legs in this accident leading to 10% permanent disability in both the lower limbs. Total compensation of Rs.25,000/- was awarded towards purchase of medicines, loss of income, pain and suffering etc. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant argues that the learned Tribunal has erred in awarding a lump sum amount towards compensation. Minimum wages of even an unskilled labourer in the State of Haryana at the relevant time were Rs.1901/- per month. The appellant's income should have been assessed as Rs.4000/- per month as he was a conductor on a jeep at the time of the accident. Learned counsel for the appellant further submits that 40% increase in income on account of future prospects be afforded to the appellant and compensation be awarded accordingly. Learned counsel for the appellant has placed reliance on the judgment of the Hon'ble Supreme Court in Jagdish v. Mohan, 2013 (2) RCR (Civil) 308. Meagre amount has been awarded towards pain and suffering, loss of amenities etc. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3—Insurance Company submits that the compensation awarded by the learned Tribunal is reasonable as per the evidence on record and calls for no enhancement. It is however not denied that the claimant suffers from 10% permanent disability of both the lower limbs.

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

Liability of the Insurance Company in this case is not in dispute and neither is there a dispute regarding the injuries suffered by the appellant in the accident in question being caused by the rash and negligent act of respondent No.1–Umed. It was averred that prior to the accident, appellant was a conductor of a jeep and was earning Rs.4000/- per month from his job and agriculture. However, there is no evidence on record regarding the job held by the appellant except a bald statement by the appellant himself. Minimum wages of an unskilled labourer as on the date of accident were Rs.1901/- per month. In this situation, it is safe to assess the income of the appellant as Rs.1901/- per month.

Compensation to the appellant is required to be assessed in view 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. The appellant's legs were fractured and a toe of his right foot was amputated due to the injuries suffered by him in the said accident. PW2 Dr. S.C. Batra has proved the Disability Certificate (Ex.P3) reflecting 10% permanent disability of both the lower limbs.

Thus, keeping in view the vocation of the appellant, it is safe to assess the functional disability of the appellant to be 2%. Therefore, loss of income is assessed as $[1901 \times 2\%] = \text{Rs.}38/-$ per month i.e., Rs.456/- per annum.

While affording an increment at the rate of 40% on account of loss of future income, the amount comes to $[(456 + (456 \times 40\%)] = \text{Rs.}638/-$ per annum. Age of the appellant was 26 years as on the date of the accident,

therefore, multiplier of 17 is to be applied. Loss of earnings is, thus, assessed as Rs.10,846/- [638x17].

The appellant is held entitled to a sum of Rs.7,000/- each on account of loss of amenities, attendant charges and special diet/transportation. A sum of Rs.5,703/- (1901x3) is awarded on account of loss of income for three months. Medical expenses of Rs.5,125/- as ordered by the learned Tribunal are maintained.

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of earnings	Rs.10,846
2.	Loss of amenities	Rs.7,000
3.	Loss of income for three months	Rs.5,703
4.	Actual medical expenses	Rs.5,125
6.	Attendant charges	Rs.7,000
7.	Special diet and transportation	Rs.7,000
Grand Total		Rs.42,674/-

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant 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, present appeal is disposed of.

(LISA GILL)
JUDGE

September 07, 2018
Ishwar

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