

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 308 of 2001 (O&M)

Date of decision : 19.12.2018

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Parminder Singh

.....Appellant

vs.

Dinesh Baloni and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Inderjit Sharma, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate for respondent No.5.

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H. S. Madaan, J. (Oral)

Claimant Parminder Singh had lost his eye in a road side accident. He preferred a claim petition against driver, owner, insurer of the offending vehicles arrayed as respondents. That claim petition was accepted by the Motor Accident Claims Tribunal, Chandigarh and compensation of Rs.2,20,000/- was granted to him vide award dated 16.2.2000, under the following Heads:-

For pain and suffering	Rs. 10,000/-
For medical treatment and medicines etc.	Rs. 10,000/-
For fitting artificial eye	Rs. 10,000/-
Loss of income	Rs.1,80,000/-

Compensation for disfigurement of face on account of removal of left eye (Because the left eye has been replaced by an artificial eye)	Rs. 10,000/-
Total	Rs.2,20,000/-

The compensation was directed to be paid with interest @ 12% per annum, from the date of filing of claim petition till realization. Liability of respondents No. 1 and 2 was fixed to the extent of 50%, jointly and severally. Liability of respondents No. 4, 6 and 8 was to the extent of 50%, that too was joint and several. It was further directed that respondent No.3 would indemnify respondent No.2 to the extent of whole of its liability, whereas respondents No. 5 and 7 (which in fact are one and the same Insurance company) would indemnify respondents No. 4, 6 and 8 to the extent of whole of their liability.

Feeling that the compensation granted to him was on lower side, the claimant has approached this Court by way of filing the present appeal, notice of which was given to the respondents.

Mr. Neeraj Khanna, Advocate has appeared on behalf of respondent No.5 – New India Assurance Co. Ltd.

I have heard learned counsel for the parties and I find that the compensation awarded deserves to be enhanced for various reasons.

Firstly, for pain and suffering, a sum of Rs.10,000/- has been awarded. Keeping in view the fact that the claimant had lost his left eye in the accident, affecting his sight, for his remaining life,

rendering him a disabled person, it is difficult to quantify his pain and suffering but the amount granted is quite meager and is enhanced to Rs.30,000/- .

The Tribunal has awarded a sum of Rs.10,000/- on account of medical treatment and medicines etc. However the aspect that PW-3 Dr. Jaswinder Singh, has stated that artificial eyeball which had been planted in place of natural eye, is required to be replaced after every three years, has not been taken into consideration. Some compensation on that count should also have been granted. Furthermore, compensation for future treatment ought to have been given. It has to be kept in mind that it is not possible to keep account of each and every penny spent on purchase of medicines etc. and to keep record of medical bills and receipts. Therefore, under the Head of medical treatment and medicines including future treatment, the amount is enhanced to Rs.50,000/-.

For fitting artificial eye an amount of Rs.10,000/- has been awarded, which is found reasonable.

On account of loss of income, a sum of Rs.1,80,000/- has been given by using the settled formula. That amount is also found to be adequate.

Compensation for disfigurement of face, on account of removal of left eye, since left eye has been replaced by an artificial eye, has been granted as Rs.10,000/-. In my view, it is on lower side and is enhanced to Rs.25,000/-

A person suffering from such type of injuries requires special

diet, besides services of an attendant for going to hospital in connection with treatment and for follow up. No compensation under those Heads has been granted. As such for special diet, services of attendant and transportation charges, compensation of Rs.10,000/- each is granted.

On account of loss of amenities, for the reason that the claimant would not be able to lead a normal life, a sum of Rs.15,000/- is given to him.

The enhanced amount, in this way, comes out to be Rs.1,20,000/-. This amount would be over and above the compensation awarded to the claimant by the Tribunal. This amount would be payable by the respondents in the same ratio and on same terms and conditions, as given in the impugned award. The claimant shall be entitled to get @ 7.5% per annum, on the enhanced amount from the date of filing of appeal till actual realization.

The appeal stands disposed of accordingly

19.12.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No