

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

FAO No.353 of 2001 (O&M).
Decided on:-March 06, 2018.

Gurvinder Singh.

.....Appellant.

Versus

Pirthi Singh and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Satyendra Chauhan, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.3-insurance company.

HARI PAL VERMA, J. (Oral)

The appellant-claimant has filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accidents Claims Tribunal, Sirsa (for short, the Tribunal) vide award dated 10.01.2000.

Briefly stated, the appellant-claimant had filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short, the Act) for grant of compensation on account of injuries suffered by him in a motor vehicular accident, which took place on 08.06.1997 in the area of Dhani Lahranwali (Rania). The accident was caused by a truck bearing registration No.HRH-4455 of which the respondent No.1 Pirthi Singh was the driver.

As per the statement of claimant, on 08.06.1997, when he along with his servant Shambhu Ram was returning from Jiwan Nagar to Sirsa on a scooter bearing registration No.HR-22-2024, which was being driven by the claimant, the offending truck being driven by respondent No.1 in a rash and negligent manner struck against the scooter from behind without blowing any horn. As a result thereof, the claimant and his servant Shambhu Ram sustained multiple grievous and serious injuries. Even the scooter was badly damaged. The claimant was taken to General Hospital, Rania and thereafter, shifted to General Hospital, Sirsa. But considering his grievous multiple injuries, he was shifted to Deep Hospital, Ludhiana on 09.07.1997. Thereafter, on 23.07.1997, he was referred to DMC, Ludhiana and remained admitted there upto 04.08.1997. For this accident, FIR No.420 dated 26.06.1997 under Sections 279, 337, 338 and 427 IPC was registered against respondent No.1 at Police Station Rania.

The appellant-claimant was about 27 years of age at the time of accident and used to work as a building contractor. He sustained multiple grievous and serious injuries which include fractures in lower ribs for which major operations were performed and he is still under treatment. On account of this accident, he has become permanently handicapped and is unable to perform his daily pursuits. On account of the injuries sustained in the accident, he suffered great pain, mental shock and agony and has lost the enjoyment of life.

Taking into consideration the evidence so adduced by the parties, the Tribunal found the appellant-claimant entitled for compensation and had

awarded a total compensation of Rs.4,81,000/- vide impugned award dated 10.01.2000. The findings recorded by the Tribunal in para Nos.26 to 30 read as under:

“26. From the above discussed evidence, it would easily be inferred that the claimant has to undergo lot of pain and agony due to the injuries received in the accident. The claimant remained hospitalised for about five months in all during which he had to undergo serious surgical operations but even after that he has not been cured and rendered paralysed for life. His permanent disablement has been assessed by the doctors to the extent of 100%. In these circumstances, any amount of compensation awarded to the claimant would not sufficient to mitigate the pain and agony suffered by the claimant due to the injuries received in the accident. The claimant has become a crippled person and a liability upon his family members throughout his life. In any case, we have to assess reasonable and justifiable amount of compensation payable to the claimant on account of the injuries received by him in the accident.

27. The claimant has placed on record medical bills, referred to above, amounting to more than Rs.1 lac. Keeping in view the nature of injuries and the period of treatment, he must have actually spent much more amount on his treatment. He is awarded a sum of Rs.1,50,000/- on account of expenses incurred on treatment, medicines, operations and other hospitalisation charges.

28. Apart from that, the claimant is awarded a sum of Rs.50,000/- as compensation towards pain, sufferings and agony, besides another sum of Rs.50,000/- as compensation on account of services of attendants, transportation charges and special diet etc.

29. *Though the claimant has stated that he was a Building Contractor but he has failed to lead any cogent evidence in that behalf. His assertion that he used to work as a mason prior to this contractorship is also not supported from any trustworthy evidence. In any case, treating him as a casual labourer, his monthly income can easily be assessed Rs.1200/- or say Rs.14,400/- per annum. Since the claimant has become permanently disabled, so he has lost other amenities of life also, besides the loss of his future income. In these circumstances, I am of the considered view that a multiplier of 16 if applied in this would be suitable and justifiable. Calculated in this manner the amount of compensation on this account comes to Rs.2,30,400/- (1200 x 12 x 16) or say Rs.2,31,000/- in round figure.*

30. *In this manner, the amount of total compensation payable to the claimant on all counts comes to Rs.4,81,000/- (1,50,000 + 50,000/- + 50,000 + 2,31,000)."*

Not satisfied with the aforesaid amount of compensation, the appellant-claimant has preferred the present appeal for enhancement of compensation.

Learned counsel for the appellant-claimant has argued that right from the date of accident, the appellant has become crippled. Even the Medical Board has assessed his disability to the extent of 100% and the doctor has opined that the possibility of reduction of disability in the case is bleak. Disability of appellant is not likely to improve. He has further argued that after the accident, the movement of the appellant has completely been restricted. He is not able to move independently and is confined to the wheel-

chair. Therefore, the appellant requires a full time attendant, so that he can perform his day to day pursuits.

Learned counsel for the appellant-claimant has further argued that at the time of accident, which took place on 08.06.1997, the appellant was 27 years of age and since then, his movement is completely confined. The Tribunal had wrongly assessed the income of the appellant, who was quite young at the time of accident. His income cannot be assessed less than Rs.2,000/- per month. He is not able to move without the help of an attendant and if he has to visit the hospital, he has to hire private transportation as it is not possible for him to use public transportation. His pain and suffering is consistent. Taking into consideration the nature of injuries, the appellant is required to have special diet. There is a great loss of future amenities to the appellant. Considering the nature of injuries, the appellant is required to get medical follow up for which medical expenses are required.

Learned counsel for the appellant-claimant has further argued that as per the law laid down by Hon'ble Supreme Court in **(2009) 6 Supreme Court Cases 121** titled as **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another**, the multiplier of '17' is to be applied instead of multiplier of '16' as applied by the Tribunal.

On the other hand, learned counsel for the respondent-insurance company has argued that taking into consideration the minimum wages at the relevant time, the Tribunal had assessed income of the appellant as Rs.1200/- per month and by adopting a multiplier of '16', the total compensation amount of Rs.4,81,000/- was awarded to the appellant which includes

Rs.50,000/- for pain and suffering, Rs.50,000/- for transportation and attendant charges and Rs.1,50,000/- for medical bills. Accordingly, the Tribunal has already granted adequate amount of compensation.

I have heard learned counsel for the parties.

There is no dispute that after the accident, the movement of the appellant has been completely restricted. He is not able to move independently and his movement is confined with the wheel-chair. The doctor had medically examined the appellant and the Medical Board had assessed his permanent disability to the extent of 100%. The doctor had further opined that there are very bleak chances of reduction of disability in the case. Therefore, for a person, who is 100% permanently disabled, an attendant is required.

Learned counsel for the appellant has produced a proposal for enhancement of compensation, which is taken on record as Mark-A. The said proposal reads as under:

Category	Amount awarded by the Tribunal	Amount proposed
Loss of income during treatment	Nil	Rs.10,000/-
Loss of income due to 100% permanent disability	Rs.2,31,000 (1200x12x16)	Rs.4,08,000/- (2000x12x17)
Attendants, Transportation and Special diet	Rs.50,000/-	Rs.1,50,000/- (Rs.50,000/- for each)
Pain and Suffering and Mental Agony	Rs.50,000/-	Rs.3,00,000/- (As per law laid down in 2012 (4) RCR (Civil) 273 titled as Kavita Versus Deepak and others)
Loss of Future	Nil	Rs.3,00,000/- (As per law laid

Amenities		down in <i>Kavita's case (supra)</i>
Medical expenses	Rs.1,50,000/-	Rs.1,50,000/- (As per the Tribunal)
Future Medical Treatment	Nil	Rs.1,50,000/- (As per law laid down in 2012(1) RCR (Civil) 509 titled as Sri Laxman @ Laxman Mourya Versus Divisional Manager, Oriental Insurance Company Limited and another
Total	Rs.4,81,000/- with interest @ 12% per annum.	Rs.14,68,000/- with interest @ 12% per annum.

Having a glance at the aforesaid proposal, this Court finds that the income of the appellant cannot be assessed less than Rs.2,000/- per month as even in the year 1997, the minimum wages were Rs.1,548/- per month, but considering the status of the appellant, who was accompanied by a servant on the date of accident, this Court can well presume that his income was more than that of a daily wager. Thus, his annual income comes to Rs.24,000/- (2000 x 12). Further, as per the law laid down in **Smt. Sarla Verma's case (supra)**, a multiplier of '17' is to be applied. Thus, on account of loss of income due to 100% permanent disability, the appellant is entitled for a compensation of Rs.4,08,000/- (24,000 x 17).

The Tribunal had awarded a sum of Rs.50,000/- for attendants, transportation and special diet, but this Court finds that this amount should be Rs.1,50,000/- i.e. Rs.50,000/- under each head. Thus, the appellant is held entitled for a compensation of Rs.1,50,000/- for attendants, transportation and

special diet. Considering the nature of injuries the services of attendants have become necessary for movements of the appellant.

The appellant is also held entitled for a compensation of Rs.1,50,000/- for pain and suffering and mental agony instead of Rs.50,000/-, as awarded by the Tribunal as the appellant remained under treatment for a long period and in different hospitals.

Because of the accident, the appellant-claimant is not able to perform any work and has lost future amenities. Therefore, as per the law laid down by Hon'ble Supreme Court in ***Kavita's case (supra)***, the appellant-claimant is held entitled for a compensation of Rs.3,00,000/- for loss of future amenities.

Similarly, for 100% permanent disability suffered by the appellant-claimant, there would be multiple health complications and, therefore, in view of the law laid down by Hon'ble Supreme Court in ***Sri Laxman @ Laxman Mourya's case (supra)***, the appellant-claimant is held entitled for a consolidated amount of Rs.1,50,000/- under the head of future medical treatment.

Thus, the appellant-claimant is held entitled for a total compensation of Rs.13,08,000/- i.e. Rs.4,08,000/- for loss of income; Rs.1,50,000/- for medical expenses; Rs.1,50,000/- for pain and suffering as well as mental agony; Rs.1,50,000/- for attendant charges, transportation and special diet; Rs.3,00,000/- for loss of future amenities and Rs.1,50,000/- for future medical treatment.

Accordingly, the present appeal is allowed and the impugned award dated 10.01.2000 passed by the Tribunal is modified to the aforesaid extent. Consequently, the appellant-claimant is awarded total amount of compensation of Rs.13,08,000/- (Rupees thirteen lakhs and eight thousand) instead of Rs.4,81,000/-, as awarded by the Tribunal.

It is made clear that from the aforesaid amount of Rs.13,08,000/-, the amount of Rs.4,81,000/- as already awarded by the Tribunal shall be deducted. There would be no change in the rate of interest on the amount of Rs.4,81,000/- awarded by the Tribunal, but the enhanced compensation amount of Rs.8,27,000/- (13,08,000 – 4,81,000) shall fetch the interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

March 06, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No