

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

FAO No.521 of 2001 (O&M)

Date of decision : 20.09.2018

Kuldeep Kumar

...Appellant

Versus

Sukha Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Saini, Advocate for
Mr. Pritam Saini, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for HRTC.

ANIL KSHETARPAL, J. (ORAL)

Claimant-appellant is in the present appeal against the award passed by the Motor Accident Claims Tribunal dated 07.09.1999 seeking enhancement of the compensation assessed and awarded.

The accident took place on 07.02.1993. Kuldeep Kumar, who was working as Receptionist at Ram Manohar Lohia Hospital, New Delhi, aged about 42 years, suffered fracture of both the legs apart from the fracture in the right arm. As per the medical evidence, there was shortening of leg by two inches. Doctors have assessed permanent disability of 60%.

Since the medical expenses were reimbursed by the employer, therefore, the amount on that account has not been claimed.

Learned Motor Accident Claims Tribunal, has awarded ₹20,000/- on account of expenditure incurred by the claimants for nutritious diet, whereas on account of permanent disability, pain and suffering and future loss of earning, total sum of ₹1,50,000/- was awarded. It has been

claimed that wife of the appellant had left her job with a view to take care of the appellant.

Keeping in view that the appellant was in Government job and there is no evidence that there was any loss of earnings, therefore, the appellant can only be awarded the compensation under following heads:-

1. Nutritious diet
2. Permanent disability
3. Pain and suffering
4. Future loss of earnings particularly post retirement
5. Loss of amenities of life
6. For crutches

Since, the accident took place in the year 1993 and much evidence is not available to arrive at exact figure under each head, therefore, this Court is left with no choice but to use thumb rule.

In the facts and circumstances of the present case particularly when it has come in evidence that the appellant has been admitted in the Hospital for 6 months, this Court finds that on account of pain and suffering, the appellant deserves to be awarded a sum of ₹30,000/- On account of future loss of earnings, post retirement, appellant shall be entitled to a sum of ₹1,00,000/-. On account of permanent disability, the appellant shall be entitled to a sum of ₹1,20,000/- For loss of amenities, the appellant shall be entitled to a sum of ₹25,000/-. For crutches, another sum of ₹10,000/- is being awarded.

As regards the compensation with respect to the compensation, on account of wife having left the job to serve the appellant, in the

considered opinion of this Court, awarding of such compensation would be farfetched. However, keeping in view that some attendant was required, therefore, on account of salary of the aforesaid attendant for the period of one year, another amount of ₹30,000/- is awarded.

The amount already awarded under the aforesaid heads i.e. ₹1,50,000/- shall be liable to be adjusted. For nutritious diet, ₹20,000/- has been rightly awarded.

Hence, the compensation is re-worked as under:-

Heads	Awarded by the Tribunal	Awarded by the High Court
Nutritious Diet	---	₹20,000/-
Permanent Disability (60%)	---	60 x ₹2000/- = ₹1,20,000/-
Pain and suffering	₹1,50,000/- (Consolidated amount)	₹30,000/-
Future loss of earning		₹1,00,000/-
Loss of amenities	---	₹25,000/-
For crutches	---	₹10,000/-
Attendant	---	₹30,000/-
Total Compensation	₹1,50,000/-	₹3,35,000/-
(-) Already awarded by MACT	---	₹1,50,000/-
Enhanced compensation	₹3,35,000/- (-) ₹1,50,000/- = ₹1,85,000/-	

Enhanced amount of compensation i.e. ₹1,85,000/-, shall carry interest at the rate of 7.5% p.a. from the date of filing of the claim petition till the payment.

In view of the above, the present appeal is disposed of.

20.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No