

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

FAO-763-2001 (O&M)
Date of decision: 12.01.2018

Nafe Singh

.... Appellant

Versus

Daya Chand and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Sumit Gupta, Advocate
for the appellant.

Mr. Ayuwan Singh, AAG, Punjab.
for respondent No.2.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 08.09.2000 passed by Motor Accidents Claims Tribunal, Jhajjar (hereinafter referred to as 'Tribunal').

The record of this case was burnt and has been reconstructed from the salvaged record and copies supplied by counsels, subject to all just exceptions.

The present appeal has been filed by Nafe Singh who suffered grievous injuries on 10.12.1996 while he was travelling in a bus of Haryana Roadways, Sonapat Depot, bearing registration No. HR-10A-1671. The said bus was being driven rashly and negligently. As a result, it struck into a bridge and turned turtle. The appellant was taken to hospital. He remained

admitted in PGIMS, Rohtak. Apart from other injuries, he suffered head injury. The result of the injury was that he was 90% permanently disabled.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal awarded a sum of Rs.1,40,000/- along with interest @ 12% per annum. The amount awarded included compensation for pain and suffering and expenses on treatment Rs.15,000/- and compensation for permanent disability including loss of income Rs. 1,25,000/-.

I have heard learned counsel for the parties, perused the paper book, record and relevant documents produced by them.

Learned counsel for the appellant argued that the disability certificate was produced before the Tribunal certifying that the appellant had suffered 90% permanent disability. The said certificate was proved by the statement of doctor Jagdish Bhalla, Medical Officer, Civil Hospital, Jhajjar. The appellant was suffering from post traumatic hemiparesis right side of body with moderate to severe gait instability. The disability was with regard to upper limb and lower limb of the right side of the body. Learned counsel contended that as a result of this permanent disability, the appellant was compulsorily retired at the age of 55 years. He was working as J.E.in Public Health Department, Jhajjar.

The grievance raised is that the Tribunal while awarding the compensation has not considered that the accident has crippled the appellant. As a result, he is having 100% functional disability and is bed

ridden. The various pecuniary and non pecuniary heads, while awarding the compensation had not been considered by the Tribunal.

Learned counsel for respondent No.2 defended the award and resisted any further enhancement.

The percentage of disability and the fact that as a result of the accident the appellant became bed ridden has not been disputed. The effect of the permanent disability is proved by the statement of Bal Kishan-PW1 in which he stated that the appellant was compulsorily retired on 1.12.1997. The Tribunal while awarding the compensation for permanent disability had awarded a lump sum amount of Rs.1,25,000/-.

The Division Bench of this Court in case of **Piara Singh and others vs. Satpal Kumar and others, 2006(4) RCR 546** had awarded Rs.2,000/-for each percentage of permanent disability.

In the present case, since the appellant is bed ridden, his permanent disability is taken as 100%, an amount of Rs.2 lakhs is awarded for permanent disability.

The contention raised by learned counsel for the appellant deserves acceptance in view of the law laid down in the Hon'ble the Apex Court in case of **G. Ravindranath @ R. Chowdary Versus E. Srinivas and another, 2013(12)SCC 455**. The Hon'ble Apex Court has held that in case of non-fatal injuries, both pecuniary and non pecuniary heads damages should be compensated.

The endeavour in case of injury is to put the injured to the original position so far as money can. In view of the said principle, the

contention of learned counsel for the appellant is accepted.

The Tribunal while awarding compensation for medical treatment has not considered the fact that the medical expenses were incurred not only during the period, the appellant was admitted but his injuries were such that the treatment had to continue. The claim of Rs.40,000/- was made for medical expenses but a sum of Rs.15,000/- was awarded for medical expenses and for pain and suffering.

Be that as it may, it cannot be disputed that medical expenses must have been incurred in the facts and circumstances of the present case. Rs.50,000/- is awarded as compensation for medical expenses and for future treatment. The appellant met with an accident in 1996 and till date he is stated to be on bed. With a paralytic condition, an attendant would have been required throughout i.e. for almost 21 years. In such circumstances, it would be appropriate that a sum of Rs.2 lakhs is awarded for attendant. The pain and suffering undergone in such cases cannot be possibly measured in monetary terms as it has extended for almost more than 20 years. The transportation would have been required during the hospitalisation and thereafter also. In such circumstances, the amount of Rs.50,000/- is awarded towards pain and suffering and Rs.25,000/- is awarded for transportation. The complications as a result of the injuries are such that appellant would be on special diet, an amount of Rs.25,000/- is awarded for special diet.

The award dated 08.09.2000 is modified to the extent that the amount awarded by the Tribunal of Rs.1,40,000/- is enhanced to

Rs.5,50,000/-.

The claimant would be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

12.01.2018

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1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : Yes