

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A. O. No. 981 of 2005 (O&M)

Date of Decision: 19.02.2018

Fateh Singh

.....Appellant

Versus

Satyavan alias Satta and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sawan Choudhary, Advocate for
Mr. Vikram Singh, Advocate
for the appellant.

Mr. R.C. Kapoor, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(Oral)

The appeal has arisen from award dated 08.12.2004 passed by the Motor Accidents Claims Tribunal, Bhiwani (for short 'the Tribunal').

Fateh Singh, aged 50 years, suffered injuries in a motor vehicular accident that took place on 13.09.2001. He was a pillion rider on a motor cycle bearing registration No.HR-16-7902, being driven by Pawan Kumar. When they reached near bus stand of village Bass, a rashly and negligently driven truck bearing registration No.HR-45-0902, dashed into the motor cycle. As a result of the accident, Fateh Singh suffered injuries. He was taken to hospital.

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

MACT Case No. 90 of 2003. The Tribunal awarded a sum of Rs.71,500/-

along with interest at the rate of 9% per annum to the appellant.

This was burnt case and has been reconstructed from the salvaged record and copies supplied by counsel subject to all just exceptions.

I have heard learned counsel for the parties, perused the paper book and the record.

The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellant assailed the award by arguing that multiplier of 8 has wrongly been applied by the Tribunal as the appellant was 50 years of age at the time of accident, hence, multiplier of 13 should have been applied. Learned counsel argued that the appellant had produced medical bills worth Rs.23,589/-. The Tribunal restricted compensation for medical expenses to the said amount only. The Tribunal has only awarded a compensation of Rs.7000/- under various heads which include pain and suffering and transportation etc. His grievance is that the amount is very meager.

Learned counsel for the Insurer defended the award and argued that the accident took place in 2001, therefore, Rs.7000/- awarded under various heads needs no enhancement.

The contention raised by learned counsel for the appellant with regard to the multiplier to be applied is duly supported by decision of the Apex Court in **Sarla Verma and others Vs. Delhi Transportation Corporation and another (2009)6 SCC 121.** Multiplier of 13 should have been applied. Learned counsel for the appellant has not challenged the income assessed by the Tribunal. The compensation for permanent

disability is re-calculated as under:

$$400 \times 12 \times 13 = 62,400/-.$$

The appellant had produced the medical bills of Rs. 23,589/-.

The Tribunal itself took a note of the fact that he must have not managed all the receipts. In such circumstance, Rs.26,000/- awarded is taken to be reimbursement of medical expenses only. The appellant remained hospitalized for 15 days. His right leg was shortened by 1½ inch. There was stiffness of right knee, chronic osteomyelitis right leg wasting of muscles with malunion right tibia. The nature of injuries suggest that he would have been prescribed special diet for speedy recovery. Transportation with fractured leg was bound to be required during the period of hospitalization and thereafter also. Attendant would have been required in the hospital and during the period of recovery. The loss of income during the period he was not fully mobile ought to have been considered.

Giving due regard to the decision of the Supreme Court in ***G. Ravindranath @ R. Chowdary Versus E. Srinivas and another***, 2013(12) SCC 455, the compensation for pecuniary and non-pecuniary damages should be awarded.

The compensation is awarded as per the table given below.

Disability	Rs. 62,400/-
Medical expenses	Rs.26,000/-
Pain and suffering	Rs.15,000/-
Transportation	Rs.10,000/-
Attendant	Rs.5000/-
Loss of income	Rs.5000/-
Future treatment	Rs.10,000/-
Special diet	Rs.5000/-
Total:	Rs.1,38,400/-

The award dated 08.12.2004 is modified to the extent that the amount awarded of Rs.71,500/- is enhanced to Rs.1,38,400/-.

The appellant would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the above said terms.

(AVNEESH JHINGAN)
JUDGE

19.02.2018
reema

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No