

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

-.-

FAO 6009 of 2010 (O&M)
Date of decision: 10.01.2018

Sukhwinder Singh alias Sukhmander SinghAppellant

Versus

Jagga Singh and othersRespondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Ashok Jindal, Advocate
for the appellant

Mr. Jag Nahar Singh, Advocate
for legal representatives of respondent No. 1

Mr. Pardeep Goyal, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

The injured victim is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 23.01.2006.

The Tribunal has awarded compensation of Rs.3,50,000.00, detailed hereunder:-

Expenses of medical treatment	Rs.95,000.00
Special diet, pain, suffering, loss of future earning, future medical expenses, transportation, fee of doctors	Rs.1,15,000.00
Loss of income due to permanent disability of 70%	Rs.1,40,000.00

Counsel for the appellant has submitted that the Tribunal has assessed income of the deceased at Rs.4,000.00 per month but allowed a

meager amount of Rs.1,40,000.00 in respect of disability to the extent of 70%. No compensation has been awarded for loss of income during the period of treatment and recovery even though it has been proved on record that the injured victim remained under treatment of various hospitals at Bathinda, Rampura Phul, Sirsa and PGI, Chandigarh. No compensation has been awarded for loss of amenities of life owing to disability to his right lower limb because of shortening by 3 inches and restriction in movements of hip and knee etc. Consolidated sum of Rs.1,15,000.00 allowed under various heads is on lower side.

Counsel representing legal representatives of respondent No. 1 has submitted that the accident was caused due to rash and negligent driving of motorcycle Hero Honda bearing No. HR 25-A-8553 by its driver Sonu as well, therefore, liability to pay the entire compensation cannot be fastened against Jagga Singh alone or estate left behind by him being driver-cum-owner of Tractor make Mohindra bearing No. PB-30-D-3702. Another submission made by counsel is that compensation assessed by the Tribunal is based upon correct appreciation of the materials on record and there is no justification for enhancement.

So far as plea of respondent No. 1 now represented by his legal representatives with regard to driver of motorcycle on which the victim was travelling as a pillion rider having contributed in causing the accident, assuming that the present is a case of composite negligence, claimants can seek compensation from either of the joint tort feasons. This apart, counsel for the the appellant has failed to point out any materials on record to substantiate his plea that driver of the motorcycle can be attributed negligence to bring the case within the purview of composite negligence of

two vehicles. In this view of the matter, there is no merit in contention of respondent No. 1 that liability to pay entire compensation cannot be fastened against driver-cum-owner of offending Tractor No. PB 30-D-3702.

This brings the Court to compensation assessed by the Tribunal. The Tribunal has awarded an amount of Rs.1,40,000.00 @ Rs.2,000.00 per percent for disability of 70%. Taking into consideration the extent of disability suffered by the victim when examined in the light of enunciation laid down by Hon'ble the Supreme Court of India in ***Raj Kumar vs. Ajay Kumar & Anr. (2011) 1 SCC 343***, loss of future income is to be assessed by applying a multiplier method. The Tribunal has assessed income of the deceased at Rs.4,000.00 per month by holding that he was working as mechanic of Peter Engine. Even if the victim had been looking after the land owned by him as well as working as a mechanic of Peter Engine, in view of minimum wage available at the relevant time for a skilled worker, income of the victim assessed by the Tribunal cannot be said to be inadequate.

The injured had stated that he was 45 years old at the time of occurrence. He has not produced any documentary evidence in support of his plea nor has mentioned his date of birth. Under the circumstances, ends of justice would be served if compensation is awarded by applying multiplier of 13. The injured has suffered disability to the extent of 70% due to restriction of movement of hip and knee (right) and shortening of lower limb by three inches, opined by the doctor as functional disability. In view of the above, loss of future income qua disability comes to Rs.4,36,800.00 *i.e.* 4,000 x 12 x 13 x 70/100.

The injured remained hospitalized at different intervals and

remained getting treatment as an indoor and out door patient from various hospitals proved by doctors examined in the case. Taking into consideration nature of injuries and treatment given to the injured, he shall be entitled to loss of income for a period of six month qua the period of treatment and recovery. Accordingly, the claimant is awarded an amount of Rs.24,000.00 for loss of income under this head.

The Tribunal has awarded compensation of Rs.95,000.00 for medical expenses based upon bills Ex C-3 to C-145, medical reimbursement allowed by the Tribunal is affirmed.

The Tribunal has awarded an amount of Rs.1,15,000.00 under various heads, detailed hereinbefore. Compensation awarded under those heads is ordered to be affirmed. However, the claimant is awarded an amount of Rs.50,000.00 for loss of amenities of life on account of disability suffered by him. Total compensation comes to Rs.7,20,800.00 (Rs.4,36,800.00 + Rs.24,000.00 + Rs.95,000.00 + Rs.1,15,000.00 + Rs.50,000.00) and additional amount is Rs.3,70,800.00 (Rs.7,20,800.00 + Rs.3,50,000.00) payable with interest @ 7.5.% per annum from the date of petition till realization. All other terms and conditions of the award shall remain intact.

(Rekha Mittal)
Judge

10.01.2018
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No