

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1039 of 2015
Date of decision: 01.08.2018

Karan Singh Appellant

Versus

Sandeep Dabas and others Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Atul Yadav, Advocate for the appellant.
Mr. Punit Jain, Advocate for respondent No.3.

B.S. WALIA, J. (ORAL)

[1] Claim is for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Gurgaon (hereinafter referred to as the "Tribunal") to the appellant Karan Singh who sustained injuries in an accident which took place on 07.02.2013. As on the date of accident, the appellant was 15 years old and was studying in Class 9. The Tribunal by taking into account the injuries sustained by the appellant i.e. trauma and pain in the pelvis on account of fracture of the pelvis and consequential inability to move the lower limbs, for which he was operated on 09.02.2013 for open reduction and internal fixation by putting nine screws under general anesthesia, awarded ₹ 2,45,544/- as compensation.

[2] Learned counsel for the appellant has confined his submissions for enhancement only qua the amount awarded on account of physical and mental pain, loss of amenities, loss of expectation of life, special diet and transportation.

[3] Learned counsel contends that the appellant met with an accident on 07.02.2013 by being hit by a 'canter' bearing registration No. HR46 A – 3338 as a result of which he suffered fracture in the pelvis for which he was operated for performing open reduction. Fixation of the fracture was done at two places by affixing nine screws under general anesthesia on 09.02.2013. Appellant remained admitted in hospital till 13.02.2013 and incurred ₹ 1,85,544/- as medical expenses. Plea is that the compensation awarded is not commensurate with the pain and suffering undergone. Secondly, plea is that the compensation awarded on account of loss of amenities and loss of expectation of life is also less. Thirdly, compensation awarded for special diet and transportation is also inadequate. Per contra, learned counsel for the respondents contended that the compensation awarded was just and reasonable.

[4] I have considered the submissions of learned counsel for the parties. The learned Tribunal awarded ₹ 20,000/- on account of physical and mental pain. There is no evidence on record with regard to the disability suffered but the fact remains that in view of the injuries sustained the appellant experienced pain and underwent suffering not only at the time of accident but also during the period of hospitalization as well as thereafter. There can be no hard and fast rule for arriving at compensation payable on account of pain and suffering but sum of ₹ 20,000/- awarded apparently is on the lower side when viewed in the context of injuries suffered and trauma undergone. Accordingly, compensation for pain and suffering is enhanced to ₹ 40,000/-. Appellant was awarded ₹ 20,000/- on account of loss of amenities and loss of expectation of life. In the absence of permanent disability, compensation of ₹ 20,000/- awarded on account of loss of amenities and loss of expectation of life, does not warrant interference. A

sum of ₹ 20,000/- was awarded on account of special diet and transportation. In other words it can be assumed that approximately ₹ 10,000/- was awarded for special diet and ₹ 10,000/- for transportation.

[5] Undoubtedly, the appellant required special diet not only during the period of hospitalization but for a good period of time even after the accident. Taking into account that the appellant would have been provided with special diet not only during the period of hospitalization but even thereafter for a number of months, a sum of ₹ 5000/- per month is assessed as payable on account of special diet per month for a period of six months. Accordingly, as against the sum of ₹ 20,000/- awarded by the Tribunal for special diet and transportation charges, the appellant is held entitled to ₹ 30,000/- for special diet and ₹ 10,000/- for transportation charges.

[6] Accordingly, compensation payable to the appellant works out as under :-

Compensation awarded by the Tribunal		Compensation awarded by this Court
Head	Amount	Amount
Medical Treatment	₹ 1,85,544/-	₹ 1,85,544/-
Loss of future earnings on account of permanent disability	-	-
Physical and mental pain	₹ 20,000/-	₹ 40,000/-
Loss of amenities an loss of expectation of life	₹ 20,000/-	₹ 20,000/-
Special diet and transportation	₹ 20,000/-	₹ 30,000/- (Special diet) + ₹ 10,000/- (Transportation).
Total	₹ 2,45,544/-	₹ 2,85,544/-

[7] Accordingly, the appeal is allowed, award is modified to the extent as noted above. Resultantly, as against compensation of ₹ 2,45,544/-

awarded by the Tribunal, the appellant is held entitled to award of compensation of ₹ 2,85,544/- along with interest @ 7.5% per annum with effect from the date of the claim petition till date of payment, less payment, if any, made earlier. Other terms and conditions of the award remain unchanged.

(B.S. Walia)
Judge

01.08.2018
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- 1. Whether speaking/reasoned : Yes/No.
- 2. Whether reportable : Yes/No.