

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4296 of 2014 (O&M)

Date of Decision : 02.05.2018

Satish Chander

....Appellant

Versus

Jamshed and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Balraj Gujjar, Advocate
for the appellant.

Mr. Ajit Sihag, Advocate
for respondents no. 1 to 3.

Mr. Alka Joshi, Advocate
for respondent no. 4.

Surinder Gupta, J.

Appellant-Satish Chander seeks enhancement of compensation for injuries suffered by him on 24.06.2011 in a motor vehicle accident with truck bearing registration no. UP-27-T-2630 (later referred to as 'the offending vehicle'), which was insured with respondent no. 4-The New India Assurance Company Ltd. The Motor Accident Claims Tribunal, Bhiwani (later referred to as 'the Tribunal') awarded him a lump sum compensation of ₹3,00,000/- under pecuniary, non-pecuniary head including the disability of 55%.

2. Learned counsel for the appellant has argued that the claimant-appellant was 45 years of age at the time of accident. He had suffered serious grievous injurious and was repeatedly operated and hospitalized. It is proved on file that he remained admitted in hospital from 24.06.2011 to 16.07.2011, 29.07.2011 to 19.08.2011 and again from 13.09.2011 to

18.09.2011. He had suffered fractures. His one leg was amputated and medical board assessed his permanent disability as 55%. The appellant is ex-serviceman and had retired from Army. He was having licence to carry weapon and could do the job of security guard and earn around ₹8000/- to ₹10,000/- per month. The Tribunal has not taken note of loss of income and future prospects of the appellant while awarding lump sum of compensation of ₹3 lakh. Claimants have placed on record bills of ₹70,102/- for his treatment. He had lost income during the period he remained under treatment and required service of an attendant while he was admitted in hospital or was lying on bed at home. Even after his discharge he had not fully recovered and required assistance of an attendant. He had also spent on transportation and required continuous medical care throughout his life due to amputation of his leg. He requires artificial limb, which will cost around ₹2 lakh and are required to be replaced periodically. He has also lost amenities of life and compensation of ₹3 lakh as awarded by the Tribunal is inadequate, insufficient and unreasonable.

3. Learned counsel for respondents submit that bills of medical expenses of claimant were of ₹70,102/-. The Tribunal after taking into account all facts and circumstances of the case has rightly awarded a lump sum compensation of ₹3 lakh, which calls for no enhancement.

4. It is not disputed that appellant had retired from Army service. He was 45 years of age at the time of accident and fit to do any job including the job of security guard. In the year 2011 by doing the job of security guard he could earn somewhere around ₹6000/- per month. Due to amputation of his leg, he has been rendered unfit to do job but not for all the

jobs. I take functional disability of claimant due to amputation of right leg and loss of income for to the tune of 30% of his income and the loss of income to claimant during the period he remained under treatment is taken as six months, works out to be ₹18000/- {₹3000X6}. Claimant is further awarded a compensation of ₹20,000/- for the attendant charges, ₹10,000/- towards transportation expenses, ₹10,000/- towards nutritious diet, ₹50,000/- for pain and suffering, ₹50,000/- for loss of amenities of life and ₹1,50,000/- towards future medical expenses and artificial limb. He is also entitled to medical expenses of ₹70,102/- (rounded off to ₹70,100/-) of which he has produced bills on record. For future loss of income he is awarded a sum of ₹3,78,000/- {1800+450 (25% towards future prospects) =2250X 12X14 (multiplier)}.

5. Keeping in view above facts, compensation to which claimant is entitled is reassessed as follows:-

<i>Sr.No</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Compensation for loss of earning during treatment for six months	₹18000
(ii)	Loss of income due to disability including future prospects	₹378000
(iii)	Compensation towards attendant charges	₹20000
(iv)	Compensation towards transportation	₹10000
(v)	Compensation for nutritious diet	₹10000
(vi)	Compensation for pain and suffering	₹50000
(vii)	Compensation for loss amenities of life	₹50000
(viii)	Compensation for future medical expenses and artificial limb	₹150000
(ix)	Medical expenses as per bills produced on file	₹70100
	<i>Total</i>	₹756100 (rounded off to ₹756000)

10. As a sequel of my above discussion, the instant appeal is accepted and the award of the Tribunal is modified. The amount of compensation is enhanced from ₹3,00,000/- to ₹7,56,000/- for the injuries suffered by claimant-appellant. The enhanced amount will carry interest 7% per annum from the date of filing of this appeal till actual realization.

May 02, 2018
jk

(SURINDER GUPTA)
JUDGE

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