

201
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4829-2002

Date of decision : 21.5.2019

Master Abhimanyu Partap Singh

..... Appellant

Versus

Mrs. Namita Sekhon and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Claimant-appellant in person with Mr. H.S. Jugait, Advocate.

Mr. Vinod Chaudhari, Advocate,
for respondent No. 2.

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KULDIP SINGH J.

This appeal has filed by claimant-appellant for enhancement of compensation awarded by Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal'), vide award dated 3.6.2002.

Facts of case are that on 10.11.1996, claimant-appellant Master Abhimanyu Partap Singh, aged about 5 ½ year, was travelling on rear seat of Maruti car bearing registration No. CHI 962 and coming from Shahbad Markanda to Chandigarh. Sampat Singh was driving car and his wife Jasbir Kaur was sitting on co driver seat. Mrs. Jatinder Gill wife of Jaswinder Gill was sitting on rear seat alongwith claimant-appellant. The car was

being driven rashly and negligently by driver of car, Sampat Singh, who lost control over vehicle and struck on the backside of trolley which was parked on extreme left side of kacha portion of road on correct side. The impact of accident was so great that Sampat Singh, his wife Jasbir Kaur and Jatinder Kaur died at spot, whereas claimant-appellant was seriously injured. He was shifted to PGI, Chandigarh, in an unconscious state. At the time of accident, he was student of UKG in Vivek Preparatory Public School, Sector 9, Chandigarh. DDR No. 18, dated 11.11.1996, was registered in Police Station, Lalru. It is stated that claimant-appellant received multiple head injuries like cerebral edema/brain edema, fracture right part of temporal bone, total loss of speech, convulsions, serious injuries on face, spinal cord, lower limbs. He was totally paralysed, resulting in 100% disability. Claimant-appellant also remained in emergency and paediatric intensive care unit from 10.11.1996 till 11.1.1997. Thereafter, he was attended by various doctors at Delhi. Even now, he is getting treatment from Indian Spinal Injuries Centre, Vasant Kunj, New Delhi. This treatment is to continue throughout life. The advance treatment is available in USA for which cost is over two lac dollars. The offending car was insured with respondent No. 2. Now, claimant-appellant cannot move out without wheel chair as his body below waist is completely paralysed. His father is professor in Geography and his mother is IAS Allied Services Officer belonging to Indian Audit and Accounts Services. It is claimed that claimant-appellant requires attendant for 24 hours. Attendant charges are Rs. 6,000/- per month. Physiotherapist visits daily and charges Rs. 300/- per day. More than Rs. 3,00,000/- have been spent on treatment. There is total loss and

enjoyment of life.

Respondent No. 1 admitted most part of petition. However, respondent No. 2 denied that car was driven rashly and negligently. It was stated that driver of car was not holding valid driving licence.

From pleadings, following issues were framed :-

1. Whether Master Abhimanyu received personal injuries in a motor vehicle accident on 10.11.1996 caused due to the rash and negligent driving of car No. CHI 962 driven by deceased Sampat Singh at Chandigarh Ambala Highway ? OPP
2. Whether the claimant is entitled to compensation ? If so, how much and from whom ? OPP
3. Whether driver was not holding a valid driving licence at the time of accident ? If so, to what effect ? OPR 3
4. Relief.

The Tribunal held that car was driven rashly and negligently. Tribunal awarded Rs. 9,00,000/- as compensation. Claimant-appellant is not satisfied with said compensation and filed this appeal.

I have heard learned counsel for parties and have also carefully gone through file.

Before this Court, claim petition has been pressed for enhancement of compensation under various heads. The learned counsel for claimant-appellant contends that there was 100% permanent disability. Now, according to disability certificate Ex.P13, disability of claimant-appellant is 85% to whole body. Tribunal awarded compensation as under :-

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|----|-----------|----------------|
| 1. | Attendant | Rs. 1,92,000/- |
|----|-----------|----------------|

2.	Physiotherapy	Rs. 2,88,000/-
3.	Transportation	Rs. 15,000/-
4.	Diapers	Rs. 5,000/-
5.	Pain and suffering, loss of expectation	Rs. 4,00,000/-
Total		Rs. 9,00,000/-

Total compensation of Rs. 9,00,000/- alongwith 9% interest per annum was awarded.

The learned counsel for claimant-appellant has placed on file enrollment certificate of claimant-appellant by way of additional evidence which shows that claimant-appellant has now been enrolled as an advocate and is practising in this Court. The said fact is not denied by learned counsel for insurance company.

Claimant-appellant himself appeared before this Court on wheel chair alongwith his counsel.

On behalf of claimant-appellant, enhancement of compensation has been sought as under :-

1.	Loss of future earning on account of permanent disability	Rs. 63,00,000/-
2.	Attendant charges with 50 years life expectancy	Rs. 84,00,000/-
3.	Medicines charges with 50 years life expectancy	Rs. 15,00,000/-
4.	Physiotherapy with 50 years life expectancy	Rs. 78,00,000/-
5.	Transportation (Lump sum)	Rs. 10,00,000/-
6.	Pain and suffering (Lump sum)	Rs. 10,00,000/-
7.	Special diet/Extra Nourishment (Lump sum)	Rs. 5,00,000/-
8.	Loss of amenities and loss of expectation of life (Lump sum)	Rs. 5,00,000/-
9.	Loss of marital bliss (Lump sum)	Rs. 10,00,000/-
10.	Future cost of nursing care (Lump sum)	Rs. 5,00,000/-
11.	Inability to lead a normal life (2 Court Cases) (Lump sum)	Rs. 1,00,000/-

I am of view that at the very outset, claimant-appellant, who is young advocate and is practising in this Court, needs motorised wheel chair. Otherwise, he will always remain dependent on attendant. At the time of accident in the year 1996, motorised wheel chair was not easily available, but now, it is easily available at affordable rate.

The learned counsel for claimant-appellant has produced quotations from three different suppliers which shows that motorised wheel chair is available around Rs. 1,00,000/- including GST. Moreover, in present scenario, motorised wheel chair is required by claimant-appellant to move around from one court to another. Therefore, Rs. 1,00,000/- are allowed to claimant-appellant to purchase motorised wheel chair.

The objection of learned counsel for insurance company that manual wheel may be allowed is found to be without any force as motorised wheel chair can also be used manually.

The learned counsel for claimant-appellant has pressed for compensation for loss of future earning. It is stated that claimant-appellant feels difficulty in moving from one court to another. He feels handicapped in free movement and approaching clients which has affected his ability to earn.

I am of view that since claimant-appellant was able to complete his law course successfully and is practising in this Court and having some case also, therefore, his loss of future income at the most can be some percentage. The litigants come to lawyer if he has got a good name. Therefore, this Court will allow future loss of income at some percentage only, starting from date of enrollment as advocate which is 2.12.016. The loss is restricted to first few years as after practice of

about 10 years, the lawyer starting earning good money and the litigants come to lawyer of their own. Therefore, loss of income is only for next 10 years.

The learned counsel for claimant-appellant has produced authority of Apex Court in Jagdish Versus Mohan and others, 2018 (2) RCR (Civil) 308. Therefore, considering that loss of income is to be assessed as on the date of accident when claimant was aged 5 ½ years, loss of income is taken to be Rs. 5,000/- per month i.e. Rs. 60,000/- per annum. In this way, for next 10 years, loss of income i.e. Rs. 60,000/- x 10 comes to Rs. 6,00,000/-. Interest on the same shall be payable at the rate of 7.25% per annum from December, 2016, when appellant got certificate to practise as lawyer.

On account of attendant charges, Tribunal has awarded a sum of Rs. 1,92,000/-. Considering that claimant-appellant needs attendant for whole of his life and considering attendant charges at the rate of Rs. 1,000/- per month. Multiplier of 16 was applied.

I am of view that attendant charges are required to be recalculated. In the year 1996, attendant may be available for Rs. 1,000/- per month, but said rate needs to be revised after every five years, in which it may double. Therefore, after five years, attendant charges will be Rs. 2,000/- per month, after next five years, attendant charges will be Rs. 4,000/- per month, and after next five years, attendant charges will be Rs. 8,000/- per month and so on. Therefore, attendant charges for twenty years comes to Rs. 9,00,000/-. Rs. 1,92,000/- already allowed, are to be deducted. Enhanced compensation under this head comes to Rs. 7,08,000/-.

The learned counsel for appellant further contends that due to

insensitivity in lower part of body, he uses diapers. For disability, he also needs certain medicines for muscle spasms and other infection due to insensitivity in lower part of body. The learned counsel for appellant has also produced bills for diapers. It is also contended that he needs regular physiotherapy, for which charges are Rs. 500/- per sitting.

In these circumstances, I intend to grant expenses for medicines, physiotherapy and diapers under one head. Considering that appellant was allowed Rs. 2,88,000/- for physiotherapy, Rs. 5,000/- for diapers and also considering the fact that amount awarded under this head can be deposited in FDR to earn interest and utilized, for purchase of medicines, physiotherapy and diapers, a consolidated sum of Rs. 8,00,000/- as compensation will meet ends of justice. Considering that interest on said amount is also to be allowed, a consolidated sum of Rs. 5,12,000/- over and above compensation allowed by Tribunal will meet ends of justice.

For the loss of amenities of life and marital bliss, compensation to the tune of Rs. 3,00,000/- is allowed while taking into consideration that interest on same will add to amount of compensation. For special diet and extra nourishing due to disability, nothing was allowed by Tribunal. Considering that this amount will earn interest, Rs. 1,00,000/- on account of special diet are also allowed. Total amount of enhanced compensation comes to Rs. 23,20,000/- i.e. Rs. 6,00,000/- on account of loss of income, Rs. 7,08,000/- on account of attendant charges, Rs. 1,00,000/- on account of motorised wheel chair, Rs. 3,00,000/- on account of loss of amenities of life and marital bliss and consolidated sum of Rs. 5,12,000/- under one head of medicines, physiotherapy and diapers

and Rs. 1,00,000/- as special diet. 7.25% interest is also allowed on the enhanced compensation from the date of filing of claim petition till payment except for loss of income for which interest shall be payable from December, 2016 till payment.

(KULDIP SINGH)
JUDGE

21.5.2019
sjks

Whether speaking order	:	Yes	/	No
Whether reportable	:	Yes	/	No