

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

FAO No.3282 of 1999
Date of Decision: 17.01.2019

Rajinder Pal Rana

...Appellant

Versus

Bikram Singh

....Respondent

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

Present: Ms. Ekta Thakur, Advocate for the appellant.

Mr. Surinder Garg, Advocate for the respondents.

B.S.WALIA, J (Oral).

1. Appeal has been filed by the claimant seeking enhancement of compensation of ₹ 75,000/- i.e. 50 % of ₹1,50,000/- awarded by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') on account of injuries sustained by him in a motor vehicular accident on 21.07.1994.

2. Learned counsel contends that the amount awarded on account of permanent disability, pain and suffering and medical expenses is inadequate besides no amount has been awarded on account of special diet, transportation charges and attendant charges. Learned counsel contends that minimum ₹50,000/- ought to have been awarded on account of pain and suffering and agony while the amount claimed to have been spent on medical expenses i.e. ₹30,000/- ought to have been awarded as against ₹10,000/- awarded besides adequate compensation ought to have been

awarded on account of special diet, transportation charges, attendant charges and loss of amenities of life.

3. Learned counsel for the respondent contends that the disability is not a permanent disability and keeping in view that the petitioner had remained admitted in hospital only for a few days, compensation of ₹20,000/- awarded on account of pain and suffering and agony and ₹10,000/- on account of medical expenses was adequate.

4. I have considered the submissions of learned counsel for the parties.

5. A perusal of the award reveals that the appellant sustained injuries in a motor vehicular accident on 21.07.1994 and as per Dr. Deepak Tyagi, Senior Resident, Neurosurgery, PGI, Chandigarh, the appellant was admitted in the PGI on 01.07.1994 in an unconscious condition with bleeding from nostrils and ears and subsequently the appellant was having decreased memory, headache and inability to smell properly and was discharged from the hospital on 25.07.1994. Dr. M.K. Tiwari, Assistant Professor, Department of Neurosurgery, PGI, Chandigarh was examined as PW-3, who proved the disability certificate of the appellant as Ex.PW3/A, according to which, the appellant was a case of head injury with very poor memory and mild sensory loss to both ears besides 85% impairment in relation to central nervous system.

6. On the basis of evidence led before it, the Tribunal awarded compensation of ₹1,20,000/- for permanent disability, ₹10,000/- towards medical treatment besides ₹20,000/- on account of pain and suffering and

agony. However, keeping in view the contributory negligence to the extent of 50%, the appellant was held entitled to award of compensation of ₹75,000/- only.

7. The appellant remained admitted in PGI from 21.07.1994 to 25.07.1994. Disability certificate Ex.PW3/A reveals that the appellant was a case of head injury with very poor memory and mild sensory loss to both ears besides had 85% impairment in relation to central nervous system. Reassessment was recommended after a period of one year besides it was mentioned that the condition was likely to improve. However, no reassessment, if any, carried out has been placed on record nor brought to the notice of the Court. No doubt the appellant remained admitted in the PGI only for a few days. However, a perusal of disability certificate reveals that the appellant was a case of head injury with very poor memory and mild sensory loss to both ears besides had 85% impairment in relation to central nervous system. In the circumstances, I am of the view that marginal increase can be given on account of compensation awarded on account of pain and suffering. Accordingly, as against compensation of ₹20,000/- awarded by the Tribunal, the appellant is held entitled to award of ₹30,000/- on account of pain and suffering. Although the appellant claimed to have spent ₹30,000/-, yet in the absence of any details of expenses incurred having been placed on record and proved, I am of the view that the compensation of ₹10,000/- awarded on account of medical expenses does not warrant interference. As regards plea for award of compensation on account of special diet, transportation charges and attendant charges besides loss of amenities of life, I am of the view that the

appellant can be suitably compensated by awarding appropriate compensation on aforesaid counts. Accordingly, the appellant is held entitled to award of ₹1500/- per month for a period of three months on account of special diet, ₹500/- per month for a period of three months on account of transportation charges, ₹1,000/- per month for a period of three months on account of attendant charges and ₹11,000/- on account of loss of amenities of life.

7. Accordingly, as against compensation of ₹75,000/- on account of 50% contributory negligence, the appellant is held entitled to the award of 50% of the following compensation:-

i) Permanent Disability	: ₹1,20,000/-
ii) Pain and suffering	: ₹30,000/-
iii) Medical expenses	: ₹10,000/-
iv)Special Diet	: ₹4500/- (@ ₹1500/- per month for 3 months)
v) Transportation Charges	: ₹1500/-(@ ₹500/- per month for 3 months)
vi) Attendant Charges	: ₹3,000/- (@₹1000/- per month for 3 months)
vii) Loss of amenities of life	: ₹11,000/-
Total	: ₹1,80,000/-

8. Keeping in view the fact that contributory negligence was attributed to the appellant to the extent of 50%, therefore, the appellant is entitled to award of compensation of Rs.90,000/- along with interest @ 9%

FAO No.3282 of 1999

per annum on enhanced amount w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

9. In view of the position as noted above, the appeal is allowed and award dated 22.07.1999, passed by the learned Tribunal is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

17.01.2019

rajesh.k.khurana

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