

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

FAO No. 2611 of 2001 (O&M)

Date of Decision: 13.3.2019

Avtar Singh

...Appellant

Versus

Jagdeep Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Kashika Kaur, Advocate, for
for the appellant.

Mr. Suvir Dewan, Advocate,
for respondents No.4—Insurance Company.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 26.2.2001 passed by the Motor Accident Claims Tribunal, Faridkot, wherein the appellant herein has been allowed compensation of a sum of ₹30910/- account of the injuries suffered by him.

2. In brief, the facts are that in an accident that took place on 3.3.1994, the appellant herein suffered severe injuries on his body. Therefore, the claimants filed a claim petition, while stating that on account of rash and negligent driving of the bus bearing registration No. PB-05-9600 the appellant suffered multiple fractures. He remained bed ridden for 6-7 months. He was admitted DMC Ludhiana on 3.3.1994. Both the legs of the appellant were broken, which were plastered and he also suffered injuries on his head and other parts of the body.

3. After scrutiny of the evidence brought on record, the Tribunal held that the the accident was the result of rash and negligent driving of the offending vehicle and on assessment of the facts and evidence before it allowed compensation of ₹30910/- which has been now challenged in the instant appeal.

4. Learned counsel for the appellant submits that the amount of compensation awarded by the Tribunal is on the lower side. It is submitted that in the accident the appellant suffered multiple fractures and he was admitted in DMC, Ludhiana on 3.3.1994, but the Tribunal has not specifically awarded any amount of compensation on account of loss of earning during the period of his treatment, loss of future earning on account of permanent disability suffered by the appellant, medical expenses incurred by him and on account of special diet taken by him during the period he remained in the hospital.

5. Per contra, learned counsel appearing on behalf of the respondent—insurance company submits that adequate amount of compensation has been awarded by the Tribunal and no interference is called for.

6. I have heard learned counsel for the parties and perused the impugned award.

7. In a judgment rendered in **Raj Kumar Vs. Ajay Kumar and others (SC) 2011 (1) SCC 343**, a formula has been prescribed for assessing compensation to be paid to a claimant who has suffered injuries resulting permanent disability, wherein it has been held that he has to be awarded compensation under the following heads namely:-

“F. Motor Vehicles Act, 1998, Sections 147, 166 and 173- Injury to a person in Motor accident- He is to be awarded compensation under following heads:- Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity)”

8. Further a Division Bench of this Court in **Piara Singh and others Versus Satpal Kumar and other 2006 (4) R.C.R.(Civil) 546** while considering the issue as to what would be an adequate compensation to be awarded to a person who has suffered permanent disability has held that ₹2,000/- of 1% disability would be an appropriate compensation to be awarded under the head of permanent disability.

9. In the instant case, the appellant has not been able to produce documents with regard to the medical expenses incurred by him. However, from medical certificate Ex. P6 it is apparent that the appellant was admitted in the hospital in the Department of Orthopaedics on 3.3.1994. His both legs were plastered and he was discharged from the hospital on 10.3.1994.

Further he was advised rest for eight months. The Tribunal, after scrutiny of the evidence brought on record by the respective parties, as already noticed awarded a sum of ₹30910/-. However, the Tribunal did not grant any specific compensation on account of of loss of earning during the period of his treatment, loss of future earning on account of disability suffered by the appellant and on account of special diet taken by him during the period he remained in the hospital, in view of the judgment rendered in **Raj Kumar's cases (supra)**, therefore, the compensation payable to the appellant deserves to be enhanced. Though the extent of disability of the appellant has not been proved, however, some guess work could be made in such like cases for granting compensation on account of loss of earning as well as loss of future income.

10. Keeping in view above facts, this Court is of the opinion that the appellant is entitled to specific compensation on account of loss of earning during treatment, loss of income due to disability, transportation and nutritious diet etc, therefore, the compensation, which claimant is entitled to, is reassessed as under:-

Sr. No.	Heads of claim	Amount
1	Compensation on account of loss of earning during treatment.	₹ 10000
2.	Loss of future income due to disability; was advised rest for eight months	₹ 40000
3.	Compensation towards attendant charges	₹ 3000
4.	Compensation towards transportation	₹ 2000
5.	Compensation for nutritious diet	₹ 10000
6.	Medical expenses and hospital charges	₹ 20000
7.	Pain and suffering	₹30000
8.	Total	₹ 1,15,000

11. The award of the Tribunal is modified and the total compensation payable to the claimant shall be ₹ 1,15,000/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the instant petition till the date of payment. Since respondents No. 1 and 2 did not appear despite service, the right of recovery to the insurance company as granted by the Tribunal is upheld.

13.3.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No