

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

FAO No. 1375 of 2004 (O&M)
Date of Decision: March 5, 2019

Kanshi Ram

...Appellant

Versus

Gurdial Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Ekta Thakur, Advocate
for the appellants.

None for the respondent Nos. 1 and 2.

Mr. R.C. Gupta, Advocate,
for respondents No.3.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 2.1.2004 passed by the Motor Accident Claims Tribunal, Chandigarh, wherein the appellant herein has been allowed compensation of a sum of ₹30,000/- on account of the injuries suffered by him.

2. In brief, the facts are that the appellant herein was going from Satsang Bhawan towards SCF No. 67, Sector 26, Chandigarh, when he was hit by truck No. HR-226-A-9867. He was taken to the General Hospital, and was admitted there. On account of the injuries suffered by him a claim petition was filed before the Tribunal for grant of compensation.

3. The claim petition was contested by the respondents, namely

insurance company and the driver, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action has accrued etc. Issues were framed and thereafter evidence was led by the parties. In order to substantiate his claim the appellant stepped into the witness box as PW1 and closed his evidence. No evidence was led by respondents 1 and 2. However, counsel for the respondent—insurance company tendered the insurance policy and report of the licencing authority. The Tribunal on assessment of the facts and evidence before it allowed a meager amount of `30,000/-, 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 a fracture on his left ankle and he remained admitted in the hospital from 17.5.2002 till 4.6.2002 i.e. for 19 days, but the Tribunal has not awarded any amount of compensation on account of loss of earning during the period of his treatment, loss of future earning on account of temporary 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 since the appellant was not able to tender any evidence with regard to the medical expenses incurred by him, as such, the amount of compensation awarded by the Tribunal is adequate 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. In view of the guidelines

laid down in **Piara Singh's case (supra)**, the appellant would have been entitled to ₹30,000/-, however, keeping in view the disability suffered by the appellant is a temporary disability as such half of the amount i.e. ₹15,000/- is awarded to him under this head.

9. The appellant in the instant case has though deposed that he had spent ₹24,000/- on his treatment and but only produced one bill Ex. P.1, amounting to ₹195/-. The accident took place on 17.5.2002 and it is not disputed that the appellant herein remained admitted in the hospital from 17.5.2002 till 4.6.2002. Thereafter, the appellant had to make daily visit to the hospital after discharge for follow up treatment. On account of the fact that he was unable to prove that he spent ₹200/- on every visits to the hospital or the doctor had prescribed him special diet he was not given any relief under those heads. Judicial notice can be taken in this regard that the appellant being an illiterate person, working as a *Palledar* would not be aware that in order to put a claim, he would be required to maintain receipts. If he remained in the hospital, almost for three weeks, it can safely be concluded that he might have incurred expenditures on medicines and on special diet.

10. Therefore, keeping in view above facts, this Court is of the opinion that the appellant is entitled to compensation on account of loss of earning during treatment, loss of income due to disability, transportation, medical expenses and nutritious diet, 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 for three weeks	₹ 4500
2.	Loss of income due to 15% disability including future prospects	₹ 15000
3.	Compensation towards attendant charges	₹ 3800
4.	Compensation towards transportation	₹ 2000
5.	Compensation for nutritious diet	₹ 5000
6.	Medical expenses and hospital charges	₹10000
7.	Pain and suffering	₹10000
8.	Total	₹50,300

11. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹ 50,300/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the 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.

March 5, 2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No