

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

FAO No. 3991 of 2005 (O&M)

Date of Decision: 25.3.2019

Satpal alias Pali

...Appellant

Versus

Chander Bhan and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Jagdish Manchanda, Advocate
for the appellant.

None for the respondent Nos. 1, 2 and 4.

Mr. P.S. Saini, Advocate,
for respondents No.3 and 5.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 14.2.2005 passed by the Motor Accident Claims Tribunal, Kurukshetra, wherein the appellant herein has been allowed compensation of a sum of ₹50,000 on account of the injuries suffered by him.

2. In brief, the facts are that in an accident that took place on 10.7.2003, the appellant herein suffered serious injuries. Therefore, the claimants filed a claim petition, while stating that on account of rash and negligent driving of the Canter bearing registration No. HR-37-A/2982 the appellant suffered multiple grievous injuries. He remained admitted in Nagpal Nursing & Maternity Home from 10.7.2003 to 2.8.2003 and he also underwent maxillofacial surgery from Dr. Naveen Chhabra of Yamuna

Nagar.

3. 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 grievous injuries, specially on right side of the nose and the upper and lower eye lid and cheek area. His jaw had been dislocated and the same was set by the doctor. He remained admitted in Nagpal Nursing & Maternity Home from 10.7.2003 to 2.8.2003 and also underwent maxillofacial surgery from Dr. Naveen Chhabra of Yamuna Nagar, 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, transportation etc.

4. 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.

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

6. 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)”

7. The Tribunal, after scrutiny of the evidence brought on record by the respective parties, held that the accident had occurred on account of rash and negligent driving of Canter No. HR-37-A/2892 being driven by respondent No.1 and awarded a sum of ₹50,000/-. However, the Tribunal did not grant any compensation on account of loss of earning during treatment and loss of future income and specific amount on other heads, in view of the judgment rendered in **Raj Kumar's cases (supra)**, therefore, the compensation payable to the appellant deserves to be enhanced. Since the appellant was not able to prove the actual income he was earning a guess work could be done that he must be earning a sum of ₹200/- per day as a labourer.

8. 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 future income due to injuries,

transportation, medical expenses 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 for three weeks	₹ 2500
2.	Loss of future income due to the injuries	₹ 7500
3.	Compensation towards attendant charges	₹ 4200
4.	Compensation towards transportation	₹ 3000
5.	Compensation for nutritious diet	₹ 7000
6.	Medical expenses and hospital charges	₹ 50000
7.	Pain and suffering	₹10000
8.	Total	₹84,200

9. The award of the Tribunal is modified and the total compensation payable to the claimant shall be ₹84,200/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the instant appeal till the date of payment.

25.3.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No