

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

CM No. 611 CII of 2011 in/and
FAO No. 102 of 2011 (O&M)
Date of Decision: 13.3.2019

Karan Singh

...Appellant

Versus

Krishan Kumar and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ajit Sihag, Advocate
for the appellant.

None for the respondent Nos. 1 and 2.

Mr. Manjeet Kaur Singhal, Advocate, for
Ms. Vandana Malhotra, Advocate,
for respondents No.3.

JAISHREE THAKUR, J.

CM No. 611 CII of 2011.

Heard.

For the reasons stated in the application, delay of 23 days in
filing the appeal is condoned.

Main case.

1. This appeal seeks to challenge the award dated 10.6.2010
passed by the Motor Accident Claims Tribunal, Bhiwani, wherein the
appellant herein has been allowed compensation of a sum of ₹95,950/-
account of the injuries suffered by him.

2. In brief, the facts are that in an accident that took place on

29.1.2008, 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 Bolero bearing registration No. HR-4N-0675 the appellant suffered fracture on his right femur. He remained admitted in Raj Hospital from 29.1.2008 to 8.2.2008 and thereafter in Arora Hospital, Hisar from 14.11.2008 to 22.11.2008. The operation was performed with implants. He claimed himself to be a driver and stated that now he could not work properly as he has become permanently disabled and his disability was assessed at 30%, permanent in nature.

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 a fracture on his right femur and he remained admitted in the hospital from 29.1.2008 to 8.2.2008 and thereafter from 14.11.2008 to 22.11.2008, but the Tribunal has not specifically awarded any amount of compensation on account of loss of future earning, towards pain and suffering and attendant charges.

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. 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 ₹60,000/-, instead of ₹10,000/- as awarded by the Tribunal.

Further, though the appellant claimed himself to be a driver, but he was not

able to prove that fact. However, in such like cases a some guess work could be adopted. So keeping in mind that the appellant was 25 years of age at the time of accident, he must be earning ₹300/- per day. As such, a sum of ₹5700/- (i.e. 19 days x 300= ₹5700) would be appropriate amount to be granted.

8. The Tribunal, after scrutiny of the evidence brought on record by the respective parties, awarded a sum of ₹95,950/-. However, the Tribunal has not specifically awarded any amount of compensation on account of loss of future earning, towards pain and suffering and attendant charges, in view of the judgment rendered in **Raj Kumar's cases (supra)**, therefore, the compensation payable to the appellant deserves to be enhanced.

9. Keeping in view above facts, this Court is of the opinion that the appellant is entitled to specific compensation on account of loss of future earning, towards pain and suffering and attendant charges, 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 19 days	₹ 5700
2.	Loss of income due to 30% disability including future prospects	₹ 60000
3.	Compensation towards attendant charges	₹ 4000
4.	Compensation towards transportation	₹ 7500
5.	Compensation for nutritious diet	₹ 10000
6.	Medical expenses and hospital charges	₹56433
7.	Pain and suffering	₹20000
8.	Total	₹1,63,633

11. The award of the Tribunal is modified and the total

compensation payable to the claimant shall be ₹ 1,63,633/- 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.

13.3.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No