IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 101

Case No. : F. A. O. No. 4105 of 2011

Date of Decision : February 04, 2019

Amrik Singh .... Appellant

vs.

Bakhtawar Singh and others .... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Vijay Lath, Advocate
and Mr. Naveen Sharma, Advocate
for the appellant.

Mr. R. C. Gupta, Advocate
for respondent no. 3 – Insurance Company.

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DEEPAK SIBAL, J. (Oral) :

The present appeal has been preferred by the appellant/claimant seeking therein enhancement in the compensation awarded by the Motor Accident Claims Tribunal (Ad hoc), Fast Track Court, Ropar (for short – the Tribunal) in the claim petition filed by the appellant under Section 166 of the Motor Vehicles Act, 1988 (for short – the Act) for grant of compensation for the injuries sustained by him in a motor vehicular accident.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition, are that on 21.11.2009, the appellant was coming to his village from Village Abiana on his motorcycle bearing registration No. PB-16-C-3618. He was being followed by his brother-in-law Satwinder Singh, who was driving his own scooter bearing registration No. HP-20-B-3349. At about 07:00 PM, when they reached near Sarpanch Dharam Kanda, one Indica Car bearing registration No. PB-12-H-8960 (for short – the offending vehicle), which was being driven in a rash and negligent manner, struck against the appellant's motorcycle, as a result of which, he received grievous injuries including a fracture in his backbone. The appellant got treatment from various hospitals including PGIMER Chandigarh. On account of injuries suffered by the appellant, he filed a petition under Section 166 of the Act seeking compensation.

The case set up by the appellant before the Tribunal was that at the time of the accident, he was 26 years of age; was working as a taxi driver at Gill Taxi Service, Sector 20, Chandigarh; his earning was Rs.8,000-10,000/- per month; due to the injury to his backbone he had become totally disabled and was confined to bed and that he had suffered great mental, physical stress as also huge financial loss. Accordingly, compensation of Rs.25,00,000/- along with interest was claimed.

On being put to notice, the respondent – Insurance Company appeared before the Tribunal and denied the appellant's claim.

The Tribunal, after concluding that the accident resulting in grievous injuries to the appellant had been caused due to the rash and negligent driving of the driver of the offending vehicle, directed the Insurance Company to pay to the appellant an amount of Rs.6,40,000/-. Such compensation was calculated after considering the evidence led by the appellant to the effect that he had become 100% disabled as also after considering the medical expenses incurred by him for his treatment.

Learned counsel for the appellant submitted that through Disability Certificate (Ex.P-2) read with the statement of Dr. Rohit Jindal (PW-5), unimpeachable evidence had come before the Tribunal that as a result of the injury to his backbone, which had been caused due to the accident in question, the appellant had become 100% disabled and therefore, the Tribunal erred in not adding to the assessed income of the appellant future prospects @ 40% as also not applying thereto multiplier of 17 as the appellant's age at the time of the accident was 26 years. Learned counsel for the appellant further submitted that the Tribunal also erred by not granting to the appellant any compensation towards future medical expenses, special diet, transportation expenses, attendant's charges as also any amount towards loss of future amenities/enjoyment of life.

Mr. R. C. Gupta, learned counsel appearing on behalf of respondent – Insurance Company very fairly submitted that in view of the law laid down by the Hon'ble Apex Court in **Sayed Sadiq etc. vs. Divisional Manager, United India Ins. Co. - (2014) 4 SCC 735**, the appellant having become 100% disabled as a result of the accident in question was entitled to grant of future prospects as also to the applicability of multiplier of 17 to his assessed income. So far as future medical expenses were concerned, Mr. Gupta submitted that there was nothing on record with regard to any medical expenses incurred or to be incurred by the appellant after his initial treatment and therefore, no such claim could be granted. With regards the claim of the appellant towards loss of amenities/enjoyment of future life, Mr. Gupta submitted that since multiplier of 17 was being applied to his income and he is also being given future prospects on his assessed income @ 40%, no amount for loss of amenities/enjoyment of future life could and should be awarded and if at all it was to be awarded, then the same should be a nominal amount.

There is no challenge by the respondent Insurance Company to the findings of the Tribunal that the accident which caused grievous injuries to the appellant resulted from the rash and negligent driving of the offending vehicle. It's liability to pay compensation to the appellant is also not disputed by the Insurance Company. Thus, what remains to be determined is only whether the compensation awarded by the Tribunal through the Award under challenge is adequate ?

The proven income of the appellant as assessed by the Tribunal is Rs.5,000/- per month. There is no challenge to the same by either party. It was further proved before the Tribunal that the appellant was earning his livelihood by working as a taxi driver. There is also unimpeachable evidence on the record to prove 100% disability being suffered by the appellant resulting from the fracture to his backbone caused by the accident in question. Therefore, it can safely be concluded that the appellant would never be able to drive a vehicle. That being so, the appellant would be entitled to the applicability of multiplier of 17 to his assessed income as also to future prospects @ 40% thereto.

The claim of the appellant towards pain and suffering and transportation charges also needs to be granted @Rs.1,00,000/- and Rs.14,400/- respectively. The transportation charges are being granted on the basis of bills produced by the appellant before the Tribunal (Ex.P-64 to Ex.P-74/A).

Since the appellant is admittedly bed-ridden, there can be no doubt with regard to the need for a regular attendant for him and for that, this Court considers the grant of a lump-sum amount of Rs.5,00,000/- to be adequate.

At the time of the accident in question, the appellant, who was a young man of 26 years and having a minor daughter, suffered 100% disability as a result of the accident in question and is now bed-ridden for life. Considering such facts, this Court is of the view that the appellant would be further entitled to a lump-sum amount of Rs.2,50,000/- towards loss of amenities/enjoyment of life.

So far as claim of the appellant towards future medical treatment is concerned, no evidence is found on the record to substantiate the same. The same is, therefore, declined.

In view of the above, the appellant is held entitled to enhanced compensation as follows :-

(i) To the appellant's assessed income, a multiplier of 17 be applied and then 40% be added to the same on account of future prospects;

(ii) towards pain and suffering - Rs.1,00,000/-;

(iii) for loss of amenities/enjoyment of future life - Rs.2,50,000/-;

(iv) towards transportation charges – Rs.14,400/- and

(v) for keeping an attendant to a lump-sum amount of Rs.5,00,000/-.

On the enhanced compensation, the appellant is also held entitled to interest @ 6.5% per annum from the date of filing of his claim till its realization.

The appeal stands allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

February 04, 2019
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Whether speaking/reasoned ?	*Yes/No.*
Whether reportable ?	*Yes/No.*