

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

FAO No. 10041 of 2014 (O&M)

Date of Decision: 4.10.2019

Shri Kant

...Appellant

Versus

Baghel Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vivek Suri, Advocate
for the appellant.

Mr. Ashwani Talwar, Advocate,
for respondents No.3—Insurance Company.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 2.12.2013 passed by the Motor Accident Claims Tribunal, Panchkula, wherein the appellant herein has been allowed compensation of a sum of ₹22,38,950/- on account of the injuries suffered by him.

2. In brief, the facts are that in an accident that took place on 14.12.2010, 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 Tata Trolola-2515, bearing registration No. PB-13-V-9109 the appellant suffered multiple serious and grievous injuries. His right leg got crushed badly which was later on amputated by the doctors in the PGI, Chandigarh. His belly also got crushed and the bladder was blasted due to the accidental injuries. It was asserted that he is 100% disabled and is not

in a position to move and work and is entirely on the mercy of others.

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 the doctors of the P.G.I., Chandigarh, amputated the right leg of the appellant from the joint of hips and it stands proved on the record that the appellant has suffered 100% disability, thereby restricting his movement and sitting capabilities. It is further submitted that due to removal of one of the testicles of the appellant, his prospects for marriage have almost become nil and as such the compensation awarded by the Tribunal under this head is too meager. It is also contended that the appellant remained admitted in the PGI, Chandigarh, from 15.12.2010 till 7.2.2011, but a negligible amount of ₹7,350/- has been given on account of loss of earning during the period of treatment. Even the amount granted by the Tribunal on account of pain and suffering, special attendant etc. is inadequate. It is further submitted that at the relevant time, when the accident took place, as per the Minimum rates of wages in the State of Haryana, even an unskilled labourer was getting ₹4348/-, whereas the Tribunal assessed the monthly income of the appellant at ₹4,000/- per month. Therefore, the monthly income of the appellant deserves to be assessed at least at ₹4348/-.

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 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, awarded a sum of ₹22,38,950/-. However, the Tribunal did not grant any compensation on account of transportation and nutritious diet. From the evidence brought on record, it appears that even the amount granted on account of other heads, particularly on account of pain and sufferings, loss of amenities etc. is inadequate.

9. Keeping in view above fact that at the relevant time, when the

accident took place, the minimum rates of wages in the State of Haryana, for an unskilled labourer was ₹4348/-, the monthly income of the appellant is assessed at ₹4348/- per month. Further, this Court is of the opinion that since the disability of the appellant has been assessed at 100%, therefore, the amount of compensation granted to the appellant, particularly on account of pain and sufferings, loss of amenities etc. deserves to be enhanced. The appellant was 25 years of age at the time of accident, and therefore, an addition of 50% is to be computed to the established income of the appellant. Thus, the average income of appellant is assessed at ₹6522/- (i.e. ₹4348 monthly income plus 50% increase, which comes to ₹2174/-). Therefore, while applying the multiplier of 17, the appellant will be entitled to ₹13,30,488/- (₹6522x12x17). Apart from that, since it stands established that the appellant has suffered 100% disability, thereby restricting his movement and sitting capabilities, compensation on account of pain and sufferings, loss of amenities etc., which appellant/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 3 months i.e. ₹6522x3	₹ 19,566
2.	Loss of income due to 100% disability including future prospects	₹ 13,30,488
3.	Compensation towards transportation	₹ 20000
4.	Compensation for nutritious diet	₹ 30,000
5.	Medical expenses and hospital charges, as already awarded	₹ 3,00,000
6.	Pain and suffering	₹ 2,00,000
7.	Future medical expenses, as already awarded	₹ 5,37,600
8.	Loss of amenities of life	₹ 2,00,000
9.	Special attending during treatment	₹ 40,000

Sr. No.	Heads of claim	Amount
10.	Loss of exception of life (shortening of normal longevity) as already awarded by the Tribunal.	₹ 50,000
11.	Total	₹27,27,654

11. The award of the Tribunal is modified and the total compensation payable to the claimant shall be ₹ 27,27,654/- 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.

4.10.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No