

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

CM No. 29121 CII of 2014 in/and
FAO No. 10579 of 2014 (O&M)
Date of Decision: 9.5.2019

Kulwant Singh

...Appellant

Versus

Gurdeep Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Harjeet Singh Kotli, Advocate, for
Mr. J.S. Khiva, Advocate,
for the applicant/appellant.

Ms. Nikita Bansal, Advocate, for
Mr. Nitin Kaushal, Advocate,
for respondent No. 2.

Mr. Neeraj Khanna, Advocate, and
Mr. Ravinder Arora, Advocate,
for respondents No.4—Insurance Company.

JAISHREE THAKUR, J.

CM No. 29121 CII of 2014

This is an application that has been filed for condonation of 60
days' delay in filing the appeal.

For the reasons stated in the application, which is supported by
an affidavit, the delay in filing the appeal is condoned.

CM stands disposed of.

Main case

1. This appeal seeks to challenge the award dated 17.7.2014

passed by the Motor Accident Claims Tribunal, Mansa, wherein the appellant herein has been allowed compensation of a sum of ₹2,17,300/- on account of the injuries suffered by him.

2. In brief, the facts are that in an accident that took place on 15.8.2012, 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 Bus bearing registration No. PB-03W-4509 the appellant suffered serious injuries. He remained admitted in Rajindra Hospital, Patiala from 15.8.2012 to 21.8.2012 and thereafter remained admitted in Nursing Home of Dr. Kulwant Singh at Mansa from 22.8.2012 to 6.10.2012 and his disability was assessed at 15%.

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 serious injuries and he remained admitted in the hospital first from 15.8.2012 to 21.8.2012 and thereafter from 22.8.2012 to 6.10.2012 , 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 on account of disability suffered by the appellant etc.

4. Per contra, learned counsel appearing on behalf of the respondents submit 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 ₹30,000/-.

8. The Tribunal, after scrutiny of the evidence brought on record by the respective parties, awarded a sum of ₹2,17,300/-. However, the Tribunal did not grant any compensation on account of loss of income during the period of treatment 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 has not been able to prove his earning, some guesswork has to be applied. Therefore, this Court would grant a sum of ₹15,000/- to the appellant on account of loss of earning during the period of one month and 23 days, he remained admitted in the hospital.

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 earning during treatment, loss of income due to disability, 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 about one month and 23 days	₹ 20,000
2.	Loss of income due to 15% disability including future prospects	₹ 30000
3.	Compensation towards attendant charges	₹ 20,000
4.	Compensation towards transportation charges (already incurred as well as for future).	₹ 20,000
5.	Compensation for nutritious diet	₹ 15,000
6.	Medical expenses and hospital charges	₹1,36,252
7.	Pain and suffering	₹50,000
8.	Total	₹2,91,252

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

compensation payable to the claimant shall be ₹ 2,91,252/- 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.

9.5.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No