

In the High Court of Punjab and Haryana at Chandigarh**FAO No. 3205 of 2013(O&M)****Date of Decision: 7.2.2019****Amarjit Singh****---Appellant****versus****Gurdeep Singh and others****---Respondents****Coram: Hon'ble Mrs. Justice Rekha Mittal**

Present: Mr. D.S.Nayyar, Advocate
for Mr. Munish Gupta, Advocate
for the appellant
Mr. Bharat Bhushan Azad, Advocate,
for respondents No. 1 to 3
Mr. R.K.Bashamboo, Advocate
for respondent No. 4

*********Rekha Mittal, J.**

The claimant is in appeal seeking enhancement of compensation in regard to injuries sustained by him in a motor vehicular accident that took place on 1.12.2010.

The Motor Accidents Claims Tribunal, Hoshiarpur (in short “the Tribunal”) has awarded compensation of Rs. 11,00,000/-, detailed hereunder:-

Medical expenses	Rs. 9,00,000/-
Compensation qua disability	Rs. 1,50,000/-
Special diet	Rs. 10,000/-
Loss of future income	Rs. 30,000/-
Attendant charges	Rs. 10,000/-

Counsel for the appellant-claimant would argue that the Tribunal has awarded a paltry sum of Rs. 1,50,000/- with regard to loss of income but evidence on record particularly medical evidence i.e. testimony of Dr. Rupinder Singh Bhatia AW1 and Dr. G.S.Powar, SMO, ESI Hospital, Jalandhar AW5 is more than sufficient to prove that the injured is rendered 100% incapacitated to run the business, therefore, loss of income is liable to be assessed by treating disability to the extent of 100%. It is further argued that claimant is entitled to services of an attendant throughout his life till he remains alive. He may be allowed adequate compensation for pain and suffering, special diet etc.

Counsel representing the respondents, on the contrary, would argue that there is no clear evidence available on record with regard to income of the victim prior to the occurrence. The claimant examined Hans Raj AW7 to prove that the victim had taken shop on rent with effect from 17.8.2009 @ Rs. 2500/- per month for running business in the name and style of 'Arora General Store' but there is no material on record that the victim actually carried out any such business in the shop, sufficient to create doubt with regard to testimony of Hans Raj. It is further argued that the claimant has been adequately compensated by the Tribunal.

The Tribunal has allowed reimbursement of medical expenses to the tune of **Rs. 9,00,000/-** and the same are affirmed. Dr. Rupinder Singh Bhatia AW1 has deposed that injured was admitted in Satguru Partap Singh Apollo Hospital, Ludhiana on 1.12.2010 and he was diagnosed as a case of bifrontal contusion and operated for bifrontal craniotomy, contusectomy and duraplasty and was discharged on 10.1.2011. The patient was again admitted on 21.2.2011 as a follow up case of head injury for craniotomy

for flap coverage and developed ICH (Intra Cranial Hemorrhage) and bone flap replacement was done. The patient was coming for follow up treatment. The patient was not independent for activities of daily living. He can walk with support of one person. He cannot communicate for urine or stool and he needs attendant for feeding. The victim was lastly came to him on 7.2.2012.

Dr. G.S.Powar was examined to prove disability caused to the victim in respect of injuries sustained by him. Dr. Powar has testified that Amarjit Singh was found to be a case of Locomotor Disability due to post head injury with fits and bladder disability assessed at 75%, permanent in nature. He proved disability certificate Ex. A49. He would further depose that due to this disability, Amarjit Singh needs assisted walking and permanent attendant to look after himself. Taking into consideration medical opinion of the treating doctor and doctor who assessed disability suffered by the victim, I find merit in contention of the claimant that loss of future income is required to be assessed by treating his disability to the extent of 100%. The victim was 55 years of old at the time of occurrence. There is no clear evidence available on record with regard to his income. Taking a clue from the minimum wage available at the relevant time, income of the victim is assessed at Rs. 6500/- per month. A multiplier of 11 is admissible for computing loss of income. In this manner, future income is calculated at Rs. 6500 x 12x 11=**Rs. 8,58,000/-**

Claimant shall be entitle to services of an attendant throughout till he remains alive. The value of services of an attendant is assessed at Rs. 3000/- per month and the same would be Rs. 3000x12x11=**Rs.3,96,000/-**.

The Tribunal has not awarded any compensation for pain and

suffering for the past as well as future. Taking into consideration the period of hospitalization and nature of injuries sustained rendering the victim disable to the extent of 100% and dependent upon others, claimant shall be entitled to Rs. **1,00,000/-** for pain and suffering. He is awarded a sum of Rs. **25,000/-** for loss of amenities of life.

The Tribunal has awarded a sum of Rs. 10,000/- for transportation expenses. Taking into consideration that the victim could not be taken to the hospital except by arranging a taxi or three wheeler, he is allowed compensation of Rs. **25,000/-** for transportation charges. He is also awarded Rs. **25,000/-** for future medical expenses. Compensation allowed by the Tribunal for special diet i.e. **Rs. 10,000/-** is affirmed.

Total compensation is Rs. 23,39,000/- [9,00,000 + 8,58,000 + 3,96,000 + 1,00,000 + 25,000 + 25,000 + 25,000 + 10,000) and the additional amount is Rs.12,39,000/- [23,39,000-11,00,000], payable with interest @ 7.5% per annum from the date of petition till realization. The additional amount except an amount of Rs.1,00,000/- shall be invested in fixed deposit. An amount of Rs.1,00,000/- shall be released in favour of the claimant forthwith. Claimant shall also be entitle to withdraw amount of Rs.1,00,000/- after expiry of each year and interest accrued on the FDR in order to maintain himself and meet expenses of his medical needs.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

7.2.2019

PARAMJIT	Whether speaking/reasoned	: Yes
	Whether reportable	: Yes/No