

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

FAO No. 3313 of 2013 (O&M)

Date of Decision: 13.3.2019

Rinku

...Appellant

Versus

Mewa Ram Meena and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sumit Gupta, Advocate
for the appellant.

None for the respondent Nos. 1 and 2.

Mr. Abhishek Goyal, Advocate, for
Mr. Pardeep Goyal, Advocate,
for respondents No.3.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 29.9.2012 passed by the Motor Accident Claims Tribunal, Jhajjar, wherein the appellant herein has been allowed compensation of a sum of ₹56,700 on account of the injuries suffered by him.

2. In brief, the facts are that in an accident that took place on 23.12.2006, 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 truck bearing registration No. RJ-14-1G-6346 the appellant suffered fracture on his right femur. He remained admitted in PGIMS, Rohtak from 23.12.2006 to 25.12.2006 and from 25.12.2006 to

28.12.2006 in Moda Nursing Home and his disability was assessed at 10%, 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 23.12.2006 to 28.12.2006, 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 permanent disability suffered by the appellant, medical expenses incurred by him and on account of special diet taken by him during the period he remained in the hospital.

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 ₹20,000/-.

8. The Tribunal, after scrutiny of the evidence brought on record by the respective parties, awarded a sum of ₹56,700/-. However, the Tribunal did not grant any compensation on account of loss of income 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.

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, transportation, medical expenses and nutritious diet 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 for one week	₹ 2500
2.	Loss of income due to 10% disability including future prospects	₹ 20000
3.	Compensation towards attendant charges	₹ 1400
4.	Compensation towards transportation	₹ 1400
5.	Compensation for nutritious diet	₹ 5000
6.	Medical expenses and hospital charges	₹28657
7.	Pain and suffering	₹15000
8.	Total	₹73,957

11. The award of the Tribunal is modified and the total compensation payable to the claimant shall be ₹ 73,957/- 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. Since respondents No. 1 and 2 did not appear despite service, the right of recovery to the insurance company as granted by the Tribunal is upheld.

(JAISHREE THAKUR)
JUDGE

13.3.2019
prem

Whether speaking/reasoned	Yes
Whether reportable	No