

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

FAO-2314-2014(O&M)

Date of decision:-30.7.2019

Harpal Singh

...Appellant

Versus

Surinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Argued by: Ms.Amandeep Kaur, Advocate
for the appellant.

Mr.Rohit Kapoor, Advocate
for respondents No.1 and 2.

H.S. MADAAN, J.

On account of suffering injuries in a motor vehicular accident, which took place on 5.6.2011 at about 11:15 a.m. at bus stand, Patiala, statedly on account of rash and negligent driving of bus bearing registration No.PB-12-L-6086 (hereinafter referred to as the offending bus) by respondent No.1 – Surinder Singh, petitioner/claimant Harpal Singh had brought a claim petition under Section 166 of the Motor Vehicles Act against respondents i.e. Surinder Singh – driver, the Ambala Syndicate Bus Pvt. Ltd. through its General Manager, Bus stand, Ropar - owner and New India Assurance Company Ltd. Patiala – insurer of that bus, claiming compensation.

On notice, all the three respondent had appeared and contested the claim petition. Issues on merits were framed. Parties were

afforded adequate opportunities to lead evidence.

After contest, the Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the Tribunal) while allowing the petition partly vide award dated 22.4.2013, awarded compensation of Rs.2,30,392/- along with interest @ 7.5% per annum from the date of filing of the petition payable by respondents No.1 to 3 jointly and severally.

Feeling that the compensation awarded to him was on lower side, the claimant has filed the present appeal seeking enhancement of compensation, notice of which was given to respondents. Respondents No.1 and 2 appeared through counsel. Initially respondent No.3 – insurance company appeared through counsel but subsequently there was no representation on its behalf.

I have heard learned counsel for the parties besides going through the record.

The Tribunal had awarded compensation to the claimant as per details below:

1.	Medical expenses	Rs.5,292/-
2.	Pain and suffering	Rs.25,000/-
3.	Loss of income during the period of hospitalization from 18.11.2010 to 21.11.2010 and unable to do routine work during the period treatment	Rs.50,000/-
4.	Transportation charges	Rs.15,000/-
5.	Special diet	Rs.20,000/-
6.	Attendant charges	Rs.15,000/-
7.	Compensation for depreciation of life and loss of amenities in life due to 60% permanent disability and amputation of right foot.	Rs.1,00,000/-
	Total	Rs.2,30,392/-

The Tribunal has awarded a sum of Rs.5,292/- to the claimant towards medical expenses. Considering that as a result of suffering injuries, left foot of claimant had got separated from his body and he was operated upon thrice and thereafter got treatment and remained bedridden for six months, as stated by claimant appearing as CW1 and PW3 Dr. Aditya Aggarwal, Additional Professor, Department of Orthopedics, PGI, Chandigarh had appeared and proved disability certificate showing that the injured had sustained crush injury of left foot and leg with below knee amputation lower 1/3rd being disability of 60% with respect to left lower limb, the amount spent on medical treatment would be much more than awarded by the Tribunal. The petitioner/claimant has filed an application for placing on record medical documents of the total amount of Rs.41,279/-. Even if it is taken that allowing additional evidence at this stage would only prolong the trial but the fact can be taken note of that a considerable sum was spent on medical treatment. Therefore, towards medical expenses sum awarded as Rs.5,292/- is on very lower side. The same is enhanced to **Rs.50,000/-**.

Keeping in view the nature and extent of injuries, the petitioner would be requiring follow up treatment in future also. Thus, I award a sum of **Rs.20,000/-** under that head.

The amount awarded by the Tribunal under the head pain and suffering to the tune of Rs.25,000/- is somewhat on lower side. The same is enhanced to **Rs.50,000/-**.

An amount of **Rs.50,000/-** awarded by the Tribunal for loss of income is found to be adequate and does not call for enhancement.

The Tribunal has awarded a sum of Rs.15,000/- to the claimant for transportation charges, which seems to be on lower side and the same is enhanced to **Rs.20,000/-**.

Similarly, a sum of Rs.20,000/- awarded by the Tribunal towards special diet also seems to be on lower side. The same is enhanced to **Rs.25,000/-**.

An amount of Rs.15,000/- awarded by the Tribunal for attendant charges is also on somewhat lower side. The same is enhanced to **Rs.20,000/-**.

The compensation of Rs.1,00,000/- awarded on account of depreciation of life and loss of amenities in life due to 60% permanent disability and amputation of right foot is somewhat on lower side. The claimant would definitely be not able to work like a normal human being. According to him, he was engaged in singing, dancing and working as a Music Teacher besides being a professional singer. His such activities would definitely be hampered and compensation of Rs.1,00,000/- so awarded is on lower side.

The Apex Court in judgment **Master Mallikarjun Versus Divisional Manager, The National Insurance Company Ltd. and another, 2014(14) SCC 396** has provided the yardstick for award of compensation to a child, who suffered permanent disability in a motor vehicular accident providing that for permanent disability upto 60%, Rs.4 lakhs is to be awarded besides some more compensation under different heads. Keeping in view the facts and circumstances of the present case, I enhance the compensation under that head to **Rs.2,00,000/-**.

No amount has been awarded to the claimant on account of loss of expectation of life due to suffering injuries in the mishap. A sum of **Rs.50,000/-** is awarded to him under that head.

Thus, the total amount of compensation comes out to **Rs.4,85,000/-**

The Tribunal has awarded compensation of Rs.2,30,392/- along with interest @ 7.5% per annum from the date of filing of the petition till actual realization, payable by respondents No.1 to 3 jointly and severally. The same is enhanced to Rs.4,85,000/-.

In this way, the enhanced amount comes out to Rs.2,54,608/- (4,85,000 - 2,30,392). The claimant would be entitled to get interest @ 7.5% per annum from the date of filing of the appeal till actual realization. The other terms and conditions given in the award shall apply to the enhanced amount as well.

With such modification, the appeal is allowed partly with costs.

30.7.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No