

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 1715 of 2015

Date of Decision: May 30 , 2019.

Vikas Bali

..... APPELLANT (s)

Versus

Chandigarh Transport Undertaking and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vipul, Advocate for
Mr. Nitin Mittal, Advocate
for the appellant.

Mr. Nitin Kaushal, Addl.Standing counsel for U.T. and
Mr. Tarun Kumar, Advocate
for the respondents.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to him by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short, the 'Tribunal') vide impugned award dated 22.09.2014 on account of the injuries suffered by him in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, a petition under Section 166 of Motor Vehicles Act (for short, the 'Act') was preferred by the appellant seeking compensation on account of the injuries suffered by him in a motor vehicle accident, which took place on 04.05.2009 due to the rash and negligent driving of Chandigarh Transport Undertaking (CTU) bus, by its driver-

respondent No.3-Sahib Singh. FIR No.74 dated 05.05.2009 under Sections 279/337 IPC was registered at Police Station Zirakpur in respect to the incident. It is pleaded that the appellant was 37 years old at the time of the accident and was working with one Taranjit Singh as a photographer on his shop, earning a sum of ₹10,000/- per month. Compensation to the tune of ₹25,00,000/- was thus prayed for.

Learned Tribunal while concluding that the accident in question took place due to the rash and negligent driving of the offending CTU bus bearing No.CH-01-G-8194 by respondent No.3, awarded a total compensation of ₹84,035/-, which is detailed as hereunder:-

Medical expenses	40,035
Loss of income for three months	18,000
Special diet	8,000
Attendant charges	8,000
Pain and suffering	10,000
Total =	84,035

Aggrieved from the quantum of compensation, the present appeal has been filed.

Learned counsel for the appellant submits that meagre compensation has been awarded to the appellant, especially keeping in view the nature of injuries suffered by him. It is submitted that the appellant remained hospitalized twice and underwent surgery as well. Though he has not suffered permanent disability on account of the said injuries, the appellant, it is submitted, is entitled to enhancement of the compensation awarded by the learned Tribunal. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for the respondents, however, refutes the abovesaid averments and submits that the compensation awarded by the learned Tribunal is just and reasonable. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

Liability of the respondents in this case is not in dispute, neither is there a dispute regarding injuries caused to the claimant/appellant in the motor vehicle accident which occurred on 04.05.2009 due to the rash and negligent driving of the offending CTU bus No.CH-01G-8194 by respondent No.3 – Sahib Singh. PW2 Dr. Harbhupinder Singh, Senior Resident, Department of Urology, PGIMER, Chandigarh has proved the injuries suffered by the appellant. It is a matter of record that the appellant was taken to GMCH, Sector 32, Chandigarh immediately after the accident. He was then referred to PGI, Chandigarh, where he remained admitted for his treatment initially from 04.05.2009 to 11.05.2009 and during the course of his follow-up treatment, he was again admitted in PGI from 02.03.2010 till 25.03.2010. Relevant part of the testimony of PW2 Dr. Harbhupinder Singh, reads as under:-

“I have been authorized by Professor A.K.Mandal, Department of Urology, PGI, Chandigarh, to brought (sic) the summoned record in this Hon'ble court today. Authority Letter is Ex.PW2/A. I have brought the summoned record i.e. treatment record of Vikas Bali s/o Sh. Parduman Lal Bali, r/o H.No.590, Housing Board Colony, Baldev Nagar Ambala City. Patient got admitted in our hospital on dated 02.03.2010, with alleged history of road side accident meatal bleeding, unable to void and was on suprapubic catheter. He was admitted for endoscopic assessment under anesthesia, which was done on 06.03.2010 by Professor A.K.Mandal, and Dr. Ravi Mohan

and Dr. Babita, under LMA. On evaluation was found to have pelvic fracture urethral distraction defect with proximal Bulbar stricture (Approx. 1 cm.), for which perineal end to end urethroplasty was done on 17.03.2010 by Dr. A.K.Mandal, MMA/KB/DS/Gopi. Post operative course in hospital was uneventful and patient was discharged on 25.03.2010 in satisfactory condition after suture removal with advice to follow up in Urology OPD after 3 weeks regarding catheter removal. Copy of treatment record is (discharge and follow up card) of patient Vikas Bali is Ex.PW2/2, treatment card (out patient ticket) of Vikas Bali is Ex.PW2/3, another OPD card of Vikas Bali is Ex.PW2/4 and the original PGI medical receipts are Ex.PW2/5 to Ex.PW2/16. Copy of operation notes is Ex.PW2/17 (original seen and returned)”

Keeping in view the nature of injuries, it is apparent that the appellant could not have carried on his vocation for at least a period of one year. Minimum wage for a skilled labourer in the State of Haryana at the relevant time was about ₹4,500/- per month. Income of the appellant is, thus, assessed as ₹4,500/- per month. The appellant is allowed loss of income for one year, instead of three months as awarded by the learned Tribunal i.e., ₹54,000/- instead of ₹18,000/-. He is held entitled to a sum of ₹35,000/- on account of pain and sufferings, instead of ₹10,000/-. The appellant is entitled to a sum of ₹15,000/- each, instead of ₹8,000/- each, on account of special diet and attendant charges. ₹40,035/- awarded by the learned Tribunal on account of medical and hospital expenses is maintained.

Appellant is, thus, entitled to compensation detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of income for 12 months	₹54,000 (4500x12)
2.	Pain and sufferings	₹35,000

3.	Attendant charges	₹15,000
4.	Special diet	₹15,000
5.	Medical expenses	₹40,035
Grand Total		₹1,59,035/-

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum, instead of 6% per annum, on the entire amount from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

May 30 , 2019.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No