

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

FAO No.6265 of 2015

Date of Decision: 03.12.2019

Bablu through his father Om Parkash

.....APPELLANT

Versus

Jagdish and others

.....RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Dheeraj Narula, Advocate
for the appellant.

Mr. R. N. Singal, Advocate
for respondent No.3.

LISA GILL J.(Oral)

This appeal has been filed by the claimant seeking enhancement of compensation awarded to him by the learned Motor Accident Claims Tribunal, Sirsa (for short, the 'Tribunal') vide impugned award dated 13.05.2015 on account of the injuries/disability 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 was preferred by the appellant through his father seeking compensation on account of the injuries suffered by him in a motor vehicle accident, which took place on 27.05.2013 due to the rash and negligent driving of truck trolla bearing registration No.RJ07-GA-9231 by its driver-respondent No.1-Jagdish. FIR No.129 dated 02.06.2013 under Sections

279/337 IPC was registered at Police Station Sadar Dabwali in respect to the incident. It is pleaded that the appellant was 22 years old at the time of the accident and was cultivating land of Shri Lila Dhar son of Shri Brij Lal on lease, earning a sum of ₹15,000/- per month. Compensation to the tune of ₹20,00,000/- 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 truck bearing No.RJ07-GA-9231 by respondent No.1, awarded a total compensation of ₹2,63,821/-, which is detailed as hereunder:-

Heads	Calculation
Hospital Bills	Rs.1,46,300/-
Medicines/investigation receipts	Rs. 92,521/-
Pain & suffering	Rs.10,000/-
Attendant charges including for future.	Rs.5,000/-
Diet/Transportation	Rs.5,000/-
Future medical expenses	Rs.5,000/-
Total Compensation	Rs.2,63,821/-

Aggrieved from the quantum of compensation, the present appeal has been filed by the appellant through his father on the averments that the appellant is still of unsound mind.

Learned counsel for the appellant, however, on instructions from his client submits that during the pendency of this appeal, the appellant has regained his mental abilities and is able to lead a normal life. Learned counsel for the appellant fairly submits that as the appellant is able to resume his normal activities, he does not seek compensation on account of loss of future income. It is however submitted that meagre compensation has been afforded by the learned

Tribunal under all the heads. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3-Insurance company, 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 record with their assistance.

Liability of the Insurance company in this case is not in dispute, neither is there a dispute regarding injuries suffered by the claimant/appellant in the motor vehicle accident which occurred on 27.05.2013, due to the rash and negligent driving of the offending truck No.RJ07-GA-9231, by respondent No.1 – Jagdish. The appellant was 22 years old at the time of accident and is claimed to be cultivating 15 acres of land of Shri Lila Dhar son of Shri Brij Lal, resident of village Chautala on lease, earning a sum of ₹15,000/- per month. The appellant suffered severe head injury i.e., 'compound depressed fracture with SAH with midline shift with sagittal sinus injury with Pneumocephalous with comminuted fracture patella (left)'.

PW3 Dr. Ajay Mishra of Amba Hospital, Sri Ganganagar (Rajasthan) has proved the injuries suffered by the appellant and has testified that the injured-appellant remained admitted in the hospital from 28.05.2013 to 11.06.2013 and operated for head injuries. He remained on a ventilator as well during his period. The appellant also remained admitted in the hospital from 28.06.2013 to 04.07.2013 for surgery of his leg. The medical expenses incurred by the appellant were proved by PW3 Dr. Ajay Mishra and PW4 Anil Kakkar.

Learned Tribunal has rightly awarded the compensation qua the medical expenses as proved on record. The same is, thus, maintained.

However, the nature of injuries indicates that the claimant-appellant would not be able to attend his normal routine work for at least a period of six months. Minimum wage of an unskilled labourer in the State of Haryana at the time of the accident i.e., 27.05.2013 was ₹5,212/- per month. In the absence of any evidence on record to indicate the vocation and exact income of the appellant, it is assessed as ₹5,212/- per month. Therefore, the appellant is held entitled to ₹31,272/- (5212 x 6) on account of loss of income for a period of six months.

The claimant is held entitled to a sum of ₹1,00,000/- instead of ₹10,000/- towards pain and suffering. ₹30,000/- is awarded to the appellant on account of loss of amenities. The appellant is entitled to a sum of ₹15,000/- instead of ₹5,000/- on account of attendant charges. Instead of a consolidated sum of ₹5,000/- towards diet/transportation, the appellant is held entitled to ₹10,000/- on account of special diet and ₹8,000/- towards transportation. ₹5,000/- awarded by the learned Tribunal, at that stage, for future medical expenses is maintained. ₹2,38,821/- as proved on record on account of medical/hospital expenses incurred by the appellant, is maintained as well.

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 six months	₹31,272
2.	Pain and sufferings	₹1,00,000
3.	Loss of amenities	₹30,000
4.	Attendant charges	₹15,000
5.	Special diet	₹10,000

6.	Transportation	₹8,000
7.	Medical/hospital expenses	₹2,38,821
8.	Future medical expenses	₹5,000
Grand Total		₹4,38,093/-

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 on the enhanced amount from the date of filing of petition till realization.

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

December 03 , 2019.
'Ali/om'

(LISA GILL)
JUDGE

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