

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

**218**

**FAO-6433-2010(O&M)  
Date of Order: 07.12.2021**

**M.L. GUPTA**

**..Petitioner**

**Versus**

**C. ROSHAN LAL AND ORS.**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Harsh Aggarwal, Advocate  
for the appellant.

Mr. Mohit Jaggi, Advocate  
for the respondent No.1.

Ms. Anju Arora, Addl. A.G., Punjab  
for respondent No.2 to 4.

**ANIL KSHETARPAL, J(Oral)**

The claimant has filed this appeal under Section 173 of the Motor Vehicles Act, 1988, with a prayer to modify the award passed by the Motor Accident Claims Tribunal while awarding Rs.10,51,969/-. The findings arrived at by the Tribunal with regard to the rash and negligent driving of respondent No.1- Constable Roshan Lal is not being questioned in the present appeal. This Bench has been informed that a separate appeal filed by the Government has already been dismissed. The appellant suffered injuries due to an automobile accident caused by the vehicle owned by the Punjab Police. The appellant has suffered a permanent disability to the extent of 60% as there is shortening of his legs to the extent of 3 and ½ inches. At the time of accident, the appellant-Mohan Lal Gupta was 56 years of age and was working as a Manager (Quality Control) in Food Corporation of India, Hoshiarpur. As noticed, the Tribunal has assessed the amount at Rs.10,51,969/-.

Heard, the learned counsel representing the parties.

The learned counsel representing the appellant contends that the

appellant remained hospitalized for a period of 148 days. He submits that the

Tribunal has awarded Rs.90,000/- towards the emoluments of the driver for a period of 5 years, whereas, the driver has to be employed throughout his life. He further submits that no amount has been awarded towards the emoluments of the attendants during the hospitalization as well as post the date of hospitalization. He further submits that the amount under the head, Pain and Suffering, has been insufficiently awarded. He further submits that on account of the future treatment, the Court has awarded Rs.30,000/-, whereas, the appellant continues to be under treatment even after a period of 15 years from the date of accident.

In absence of complete evidence, the Court is required to apply the thumb rule. In the present case, the appellant is now around 70 years of age.

Keeping in view the aforesaid facts, the amount under the following heads is enhanced:-

| <u><b>Sr. No.</b></u> | <u><b>Emoluments</b></u>                                                                         | <u><b>Increased amount<br/>over and above<br/>awarded by MACT<br/>(in Rs.)</b></u> |
|-----------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| 1.                    | Emoluments for the driver.                                                                       | 90,000/-                                                                           |
| 2.                    | Emoluments for the attendant during hospitalization as well as post the date of hospitalization. | 1,00,000/-                                                                         |
| 3.                    | Pain and suffering                                                                               | 50,000/-                                                                           |
| 4.                    | Future treatment                                                                                 | 50,000/-                                                                           |

The amount shall be payable along with the interest as awarded by the Motor Accident Claims Tribunal.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

**December 07, 2021**

**(ANIL KSHETARPAL)**  
**JUDGE**

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No