

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

FAO-2148-2001 (O&M)

Date of Decision: December 07, 2022

Ranjeet Singh

....Appellant

Versus

Jitender Kumar alias Bobby and others

.....Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr.Deepinder Singh Walia, Advocate
for the appellant.

Mr.R.K.Bashamboo, Advocate
for respondent No.3-Insurance Company.

ARCHANA PURI, J

Challenge in the present appeal is to the Award dated 06.01.2001 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted, on the ground of injuries, sustained by the appellant-claimant, in a motor vehicular accident, which took place on 22.02.1997.

On appraisal of the evidence adduced, learned Motor Accident Claims Tribunal had awarded compensation to the extent of Rs.1,05,000/-.

Being dissatisfied with the extent of compensation, the appellant-claimant has filed the present appeal for seeking enhancement of the compensation.

So far as the fact of accident and manner of its taking place as

well as liability of the driver, owner and insurer of the offending vehicle to be joint and several are concerned, it is pertinent to mention that no appeal has been filed by the persons, so made liable to challenge the Award and thus, findings so arrived, have attained finality.

In this backdrop, learned counsel for the appellant-claimant underscores that the appellant-claimant had suffered 60% disability. His left hand got injured, as a result whereof, he was shifted to Civil Hospital, Rewari and thereafter, he was referred to Safdarjang Hospital, New Delhi. He remained admitted in hospital for 8 days and after that, being an Ex-Army personnel, got admitted himself in Army Base Hospital, Delhi Cantt, till 05.06.1997.

It is submitted by learned counsel for the appellant-claimant that on account of injuries, so sustained, the appellant-claimant is unable to perform his everyday activities. Considering the restricted movement of his left hand, the compensation, so granted, is miserably on lower side. In fact, no compensation has been granted, on the count of attendant charges.

Further, it is submitted by learned counsel for the appellant-claimant that at the time of accident, appellant-claimant was 49 years old and was retired Army man. However, considering his age, he was to join as Security Officer in TATA, which avenue has been closed for him. As such, it is submitted that compensation, so granted, requires extensive enhancement.

On the contrary, learned counsel for the insurance company has assiduously refuted the claim of the appellant-claimant. He submits that the compensation granted, cannot be said to be on lower side, affecting his day-

to-day life affairs, as so asserted. Rather, it is submitted that the compensation, on the count of disability, has already been worked upon on higher side.

The Motor Vehicle Act is in the nature of Social Welfare Legislation and its provisions make it clear that compensation should be justly determined. A person is not only to be compensated for the injuries suffered due to the accident but also for the loss suffered, on account of the injury and his inability to lead the life, he/she led prior to the life altering event. It should always be kept in mind that the measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation, should not be so abysmal, as to lead one to question, whether our law, values human life. If it does, as it must, it must provide a realistic recompense, for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law. Thus, the Courts should, as such, strive to provide a realistic recompense, having regard to the realities of life, both in terms of assessment of the extent of disability and its impact, including the income generating capacity of the claimant and not only that, even the impact of the accident on his/her life, on account of the disability, so suffered. The Courts should be mindful of the fact that though, the physical disability may be on the lesser count, but the functional disability, on account of injury sustained, can always be on higher side.

Keeping in view the same, it is pertinent to mention that it is impossible to equate human sufferings and personal deprivation with money. However, this is what the Act enjoins upon the courts to do. The

Court has to make a judicious attempt to award damages, so as to recompense the claimant for the loss of sufferings suffered by the victim.

In *Sarla Verma vs. Delhi Transport Corporation and anr.*, **2009(3) RCR (Civil) 77**, Hon'ble the Supreme Court held that the just compensation is adequate compensation and the Award must be just that **-“no less and no more”**.

Therefore, while the money awarded by Courts can hardly redress the actual sufferings of the injured victim, the courts can make a genuine attempt to help restore the self-dignity of such claimant, by awarding **‘just compensation’**.

In this backdrop, now let us consider the injuries sustained by the appellant-claimant, in the accident in question. Appellant-Ranjeet Singh has himself stepped into the witness box as PW-1. He deposed about the fact and manner of accident, having taken place. Also, he deposed about the manner of sustaining of injuries, on his left hand and further also deposed that he was taken to General Hospital, Rewari and therefrom, he was referred to Base Hospital, Delhi, where he remained admitted for 4-5 months. His left hand was operated and an iron rod had been inserted in his left hand. He also deposed about having suffered 60% of the disability. The disability certificate has been proved as Ex.PA.

Undisputedly, appellant-claimant was an Ex-Army personnel and he was 49 years old, at the relevant time. Considering his age, he was bound to have re-employment. Though, the appellant had stated about himself to be working as Security Officer in TATA and earning Rs.6,500/- per month and further, he stated that he could not join his duty because of

the accident, but however, it is pertinent to mention that there is nothing, as such, coming on record, about the assertion of re-employment and the extent of earnings. However, the fact remains that appellant was an Ex-Army personnel and looking at his age, there was bound to be re-employment and considering his army background, re-employment also would have been quite respectable. Considering all the aforesaid circumstances, in modest estimate, his earnings are taken to be Rs.4,000/-

Keeping in view the age of the deceased, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, an addition of 40% is to be made, on the count of future prospects, which comes to be Rs.5,600/-(Rs.4000+40%) per month and annual earnings is worked upon as Rs.67,200/-. As per the guidelines laid down in ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009 (3) RCR (Civil) 77***, appropriate multiplier to be applied, in the case in hand is '13' and after such application, the income comes to Rs.8,73,600/-.

Now, coming to the disability, so suffered. The disability certificate has been proved as Ex.PA. Very true, as so pointed by learned counsel for the insurance company that none of the doctors, as such, had been examined to prove the disability certificate, but since, it is a summary proceeding, the said certificate having been tendered into evidence, as such, cannot be discarded. Also, it has been pointed out that the disability, so suffered, has never been stated to be permanent. However, even if, it has not been so stated, but the fact remains that the appellant-claimant had suffered injury on his left hand and both the bones were fractured, for which he had undergone operation and an iron rod had been inserted in his left

hand. In the disability certificate, there is an observation made '***There is severe restriction of movement. Left elbow (22.5) and left wrist (22.5) zone = 45% & Partial loss of prehension and partial loss of strength of left hand (15+15=30%). Total disability = 45+30 (90-45)/90 = 60% (Sixty percent)***'.

Considering the fact of insertion of iron rod and restricted movement of elbow and left wrist and there being partial loss of strength of left hand, the functional disability is definitely there. Taking into consideration the whole body, the functional disability, as such, can conveniently be taken to be 40%. Therefore, by multiplying the income with 40% of the disability, as per standard multiplier process, the loss is assessed as $\text{Rs.}8,73,600 \times 40\% = \text{Rs.}3,49,440/-$.

Besides the aforesaid, the total of the medical bills, vis-a-vis, treatment undergone by the appellant, ought to be taken into consideration. The total of said medical bills is Rs.5,000/-. Furthermore, keeping in view the duration of hospitalization of the appellant, he is bound to have been taken care of by at least one attendant, for another 4-5 months. Thus, on the count of attendant charges, another sum of Rs.30,000/- is granted. Likewise, on the count of expenditure incurred for the use of transportation, while appellant remained hospitalized and for some time thereafter, another sum of Rs.20,000/- is granted.

During the course of his treatment and some time thereafter, the appellant must have taken nutritious diet and therefore, on the count of special diet, another sum of Rs.40,000/- is granted. Keeping in view the extent of disability, so suffered, the compensated granted, on the count of

pain and suffering is also on lesser side and the same is enhanced to Rs.40,000/-.

Thus, in the light of the aforesaid discussion, the appellant-claimant, is now held entitled for compensation as under:

Loss of work due to disability:	Rs.3,49,440/-
Medical Bills	: Rs.5,000/-
Attendant Charges	: Rs.30,000/-
Transportation charges	: Rs.20,000/-
Diet and Nutrition	: Rs.40,000/-
Pain & suffering	: Rs.40,000/-
Total	: Rs.4,84,440/-

As such, the enhanced compensation, after the compensation awarded by the Tribunal comes to **Rs.4,48,440-1,05,000=Rs.3,79,440/-**. Learned Tribunal had granted the interest at the rate of 12% per annum from the date of presentation of the petition, till payment of the amount. However, the interest rate has reduced drastically, hence thereafter. Keeping in view the same, for the enhanced amount of the compensation, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

With the above observations, the present appeal stands allowed. The impugned Award dated 06.01.2001 stands modified, to the extent, as indicated aforesaid. The remaining terms of the impugned Award, shall remain same.

December 07, 2022
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

