

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 536 of 2017 (O&M)

Date of Decision: 10.11.2022

Ajay Singh Parmar

... Appellant(s)

Versus

Akash Jain and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Tribhawan Singla, Advocate
for the appellant(s).

Mr. Rajbir Singh, Advocate
for the respondent No.2.

Anil Kshetarpal, J.

1. This is the claimant's appeal for the modification of the amount assessed by the Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as "the Tribunal") while deciding his claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the 1988 Act").

2. The correctness of the findings of the Tribunal with regard to the accident, involvement of the vehicle and findings with regard to rash and negligent driving are not in dispute. The only issue which this Court is called upon to adjudicate is "As to what is the appropriate amount payable to the claimant?" The Tribunal has held that the petitioner is required to be awarded ₹3,90,413/-. An amount of ₹2,30,413/- has been awarded towards the reimbursement of medical expenses. The claimant remained admitted in

(hereinafter referred to as “PGIMER”), for about two months and three days. As per the disability certificate (Ex.P249), the claimant has suffered 25% functional disability of right upper and lower limb with mild weakness. The Tribunal has held that the petitioner is entitled to an amount of ₹50,000/- on account of his disability apart from awarding ₹20,000/- towards the pain and suffering, ₹10,000/- each towards the transportation charges and special diet and ₹60,000/- for the loss of income. At the time of accident, the appellant was 37 years of age. He was practising in the High Court with a standing of more than seven years on the date of the occurrence of accident.

3. In order to get the sufficient opinion, the Medical Superintendent, PGIMER, Chandigarh, was requested to constitute a Board and give its opinion, which has been received. The Board has opined as under:-

“The opinion by the various board members based on the medical examination was done and the reports of the investigations received are as follows:-

- i) As per detailed neuropsychological assessment (standardized tests for memory, intelligence and perceptuomotor functions), his perceptuomotor functions were adequate, IQ was found to be 98 (average intelligence), memory was functioning at 44th percentile rank which indicated no significant cognitive impairment.*
- ii) As per detailed mental state examination, he was found to be having stress due to ongoing financial crisis (as*

reported by patient). However, there was no significant impairment on day to day functioning due to psychiatric issues.

iii) As per hearing, speech and language assessment, there is no significant deficit in hearing, speech and language following the various investigations (Pure tone audiometry, impedance audimetry, otoacoustic emissions) carried out by the experts on the patient. The impression is normal hearing sensitivity and clinically normal speech and language.

iv) As per neurosurgeon's assessment: He was oriented to time, place and person. There was grossly no motor or sensory deficit or any impairment of locomotor functions.

Impression: As per the detailed assessment mentioned above, the medical board is of the opinion that there is nothing suggestive that the subject (Ajay Singh Parmar) has low attention and concentration or poor alertness. Further, there is no gross locomotor functional impairment. On examination, there is nothing to suggest impairment of the overall functionality of the subject."

4. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book along with the requisitioned record.

5. On the one hand, the learned counsel representing the appellant

is required for continuing in practice as a lawyer at the High Court. He submits that the appellant has, undoubtedly, suffered the functional disability only to the extent of 25%, however, for the purpose of profession, he has not only lost his confidence, but also due the accident he has practically gone out of practice as a professional lawyer.

6. On the other hand, the learned counsel representing the insurance company contends that the Tribunal has already awarded sufficient amount to the claimant.

7. As already noticed, the Tribunal has awarded an amount of ₹2,30,413/- towards the reimbursement of medical expenses. Thus, the appellant has practically been awarded only ₹1,60,000/-, approximately. The accident took place on 06.11.2014. The profession of a Lawyer or a practising Advocate requires the highest level of mental intelligence, alertness and sharpness. An Advocate, while appearing in the Court, is required to maintain 100% focus and ability to analyse the developments while addressing the arguments. Normally, the clients refrain from engaging a professional who suffers from some kind of disability particularly when they have other options present before them. In these circumstances, the Tribunal has erred in assessing the loss of income and damages on account of disability. The Tribunal has neither assessed the income of the appellant nor the loss. It would be noted here that the appellant will have to live with this condition particularly when even after a long period of eight years, there is no improvement in his mental health. The appellant was also stated to be having an experience of merely seven years when the said accident took place. Although, no record has been produced before the Court, however, the

appellant has deposed that he used to earn around ₹40,000/- per month.

Since there is no documentary evidence in support of the claim, this Court assesses the income of the appellant at ₹20,000/- per month. On account of future prospects, the income of the appellant is required to be increased by 40%. Thus, the monthly income of the appellant comes to ₹28,000/-. The appellant has suffered disability of 25%, Thus, the monthly loss of income suffered by the appellant comes to ₹7,000/-. The yearly loss comes to ₹84,000/-. Thus, on applying a multiplier of 15, the total amount comes to ₹12,60,000/-.

8. In addition thereto, on account of disability, the appellant is held entitled to ₹2,00,000/-. Consequently, the amount of total compensation is re-worked as under:-

Sr. No.	Heads under which the amount awarded	Amount awarded by the Tribunal (In ₹)	Amount awarded by the High Court (In ₹)
A)	Monthly Income	Nil	20,000.00
B)	Future Prospects	Nil	8,000.00 (40% of the income assessed)
C)	Monthly loss due to disability (25%) and annual loss of income	Nil	84,000.00 (7,000 (25%) x 12)
D)	Multiplier applied	Nil	12,60,000.00 (84,000 x 15)
E)	Amount on account of disability	50,000.00	2,00,000.00
F)	Medical Expenses	2,30,413.00	Nil
G)	Pain and Sufferings	20,000.00	
H)	Attendant Charges	10,000.00	
I)	Transportation Charges	10,000.00	Nil
J)	Special Diet	10,000.00	
K)	Amount on account of injuries	60,000.00	Nil
L)	Total compensation awarded	3,90,413.00	14,60,000.00
M)	Amount of compensation enhanced by this Court	10,69,587.00 (14,60,000 – 3,90,413)	

9. The amount already granted by the Tribunal for reimbursement of the medical expenses shall be in addition. However, the remaining amount will be adjusted, if already paid. The balance amount shall be payable with interest @ 8% per annum from the date of filing of the claim petition till its payment to the appellant.

10. With the observations made above, the present appeal is disposed of.

11. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

November 10, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No