

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

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FAO-372-1990
Date of decision: 06.12.2023

Ujjal Singh

.....Claimant/Appellant

Versus

State of Punjab and another

..... Respondents

FAO-371-1990

Tripal Kaur

.....Claimant/Appellant

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the appellant.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. The present appeals have been filed by the claimant-appellants for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Faridkot (for short 'the Tribunal') vide award dated 13.10.1989, on account of injuries received by them in a motor vehicular accident.

2. These are reconstructed cases, as the original files got burnt in the fire that broke out in the concerned branch in the year 2011. Since the cases are pending for the last more than 33 years, the learned State counsel has no objection, in case they are decided on the basis of the available record.

3. In FAO-372-1990, it has been averred in the grounds of appeal that the injured-appellant Ujjal Singh met with an accident, wherein he had suffered multiple injuries and remained admitted in the hospital for 04 days and was on leave for 25 days. He had received injuries on his left cheek, had a cut on upper lip and his tooth was also partly broken. However, only a meager amount of Rs.3,000/- has been awarded to him by the Tribunal. No amount for special diet, attendant charges, transportation costs, etc. was given and the one under the head of pain and suffering was also on the lower side.

4. It has been stated in the grounds of appeal in FAO-371-1990, that the injured-appellant Tripal Kaur had suffered multiple injuries and remained admitted in the hospital for 05 days. She received injuries on her forehead, right arm and her right shoulder was got fractured and remained under plaster for about 03 months, due to which she was unable to do any physical work and had kept a maid servant who was being paid for Rs.400/- per month. An amount of Rs.7,000/- was awarded to her by the Tribunal without granting anything for attendant charges, transportation costs, etc. The amount under the head of pain and suffering was also on the lower side.

5. On the other hand, learned State counsel has opposed the present appeal by stating that just and reasonable compensation has already been awarded to the appellants, which requires no enhancement.

6. Heard and perused.

7. There is no dispute with regard to the accident that was caused by the driver of the offending vehicle (driver died in the accident), wherein both the appellants had suffered multiple injuries, resulting in serious

consequences. As far as the liability fastened upon the driver and owner of the offending vehicle, to be joint and several, as concerned, it is pertinent to mention that no challenge to the same has been made by them and thus, this issue does not warrant any further scrutiny.

8. Perusal of the award reveals that in the accident in question, appellant-Ujjal Singh, who was a Govt. employee, had suffered multiple injuries and remained hospitalised from 23.10.1987 to 26.10.1987. From the statement of PW3-Dr.Jai Dev Singh, it has been affirmed that the appellant in FAO-372-1990 had stitched wound over his mouth and was complaining pain over the incisor teeth.

9. Further, claimant-appellant Tripal Kaur also received multiple injuries for which, she remained admitted in hospital for 05 days. Dr.Jai Dev Singh, PW-3 stated that as per X-Ray her right shoulder joint showed fracture of neck of scapula on account of that she was got plastered for about 03 months.

10. The judgment in **Sidram vs. United India Insurance Co.Ltd.,** (2023) 3 SCC 439, can be aptly referred to wherein Hon'ble the Supreme Court observed that, "This Court has emphasized time and again that "just compensation" should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives." Further,

while allowing the appeal, the compensation was enhanced by taking into consideration the following:

“56. The evidence on record indicates that the appellant suffered paraplegia due to the accident. Paraplegia is a form of paralysis of lower body. It restricts everyday routine more particularly the physical activity and leads to (i) deprivation of simple pleasures and amenities of life, (ii) 100% loss of earning capacity, (iii) long term secondary complications requiring continuous care, medical treatment and hospitalization, (iv) feeling of helplessness, depression, anger, stress, anxiety, etc. In short, paraplegia impairs physical, mental and psychological health and has devastating impact on the social and financial well being of the victim.”

57. In the case on hand, the appellant was in the business of selling utensils and used to travel to various villages to sell the same. With this disability in the form of paraplegia being suffered by the appellant, it is not possible for him now to walk a long distance or stand for a long period. His business could be said to have been gravely impacted. Further, the appellant at the time of accident was just 19 years old.....”

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(10) Loss of Amenities

104. The Tribunal held that an amount of Rs. 30,000/- should be awarded towards loss of amenities. The High Court upheld the amount of Rs. 30,000/- as awarded by the Tribunal. The claim of the appellant towards loss of amenities is Rs. 50,000/-.

105. This Court in the case of Pappu Deo Yadav (supra), observed:

“6. The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions.

[Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683]”

106. In R.D. Hattangadi (supra) it has been held:

“12. In its very nature whenever a tribunal or a court is required to fix the amount of compensation in cases of accident, it involves some guesswork, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused. But all the aforesaid elements have to be viewed with objective standards.

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17.When compensation is to be awarded for pain and suffering and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age,

the unusual deprivation he has suffered, the effect thereof on his future life.....”

110. Vijaykumar Babulal Modi (supra), the High Court of Gujarat observed as under:

“It appears that the claim under this head is to the tune of Rs.3 lac. However, the Tribunal has not awarded any sum under the head 'loss of amenities'. We are of the opinion that this head must take into account all aspects of a normal life that have been lost due to the injury caused. As per R.D. Hattangadi's case (supra), this includes a variety of matters such as the inability to walk, run or sit, etc. We include here too the loss of childhood pleasure such as the ability to freely play, dance, run, etc., the loss of ability to freely move or travel without assistance. Then, there is the virtual impossibility of marriage as well as a complete loss of the ability to have sex and to have and nurture children.”

111. In view of the aforesaid, we award an amount of Rs. 50,000/- for the loss of amenities taking into consideration the fact that the appellant was 19 years old at the time of the accident, and also considering the nature of injuries suffered by him and the extent of his disability.

112. The total compensation awarded by us under different heads is as under:

“1.	Loss of earning due to disability :	Rs.7,77,600/-
2.	Loss of earning for 6 months:	Rs.48000/-
3.	Medical expenses	Rs.1,55,000/-
4.	Future medical expenses	Rs.2,16,000/-
5.	Attendant charges	Rs.4,32,000/-
6.	Litigation charges	Rs.50,000/-
7.	Loss of conveyance	Rs.50,000/-
8.	Pain and suffering	Rs.1,00,000/-
9.	Marriage prospects	Rs.3,00,000/-
10.	Loss of amenities	Rs.50,000/-
Total		Rs.21,78,000/-”

11. Hon’ble The Supreme Court in **Mohd. Sabeer vs. U.P. SRTC**, 2022 SCC OnLine SC 1701, wherein the permanent disability had been caused to the claimant, a 37 year old man, as his right lower limb had been hindering his mobility proving functional disability severely impacting his earning capacity and having to use prosthetic limb, awarded Rs.38,70,120/- (including Rs.2,00,000/- for pain and suffering, Rs.15000/- special diet, Rs.2,00,000/- loss of amenities of life) by observing that it is a well settled position of law that in cases of permanent disablement caused by a motor

accident, the claimant is entitled to not just future loss of income, but also future prospects. It has been reiterated by this Court in multiple instances that “just compensation” must be interpreted in such a manner as to place the claimant in the same position as he was before the accident took place.

12. Keeping in view the peculiarity of facts and circumstances in light of the aforesaid dictum of law, this Court finds that for the ends of justice to be adequately met, the amount of compensation awarded to the appellants deserves to be and is enhanced thus:

Appellant-Ujjal Singh

- i. Pain and suffering: Rs.25,000/-
- ii. Medical treatment and for follow up to: Rs.25,000/-
- iii. Loss of amenities of life: Rs.25,000/-
- iv. Attendant, special diet and transportation : 25,000/-

Appellant-Tripal Kaur

- i. Pain and suffering: Rs.25,000/-
- ii. Medical treatment and for follow up to: Rs.25,000/-
- iii. Loss of amenities of life: Rs.25,000/-
- iv. Attendant, special diet and transportation : 25,000/-

13. Accordingly, the enhanced amount of compensation of Rs.97,000/- and Rs.93,000/- over and above the amount of Rs.3000/- and Rs.7,000/- already awarded by the Tribunal to appellants Ujjal Singh and Tripal Kaur, respectively, alongwith interest @ 7.5% per annum shall be paid to them by the respondents within a period of two months from the date of receipt of a certified copy of this judgment, failing which, the amount shall accrue an interest at the rate as already awarded by the Tribunal.

14. Modifying the award to the aforesaid extent, the present appeals are disposed of.
15. Registry is directed to send a copy of the order to the concerned Tribunal for necessary compliance.
16. Photocopy of this order be placed on the connected file.

(AMAN CHAUDHARY)
JUDGE

06.12.2023
Hemant

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