

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

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FAO-166-1991 (O&M)
(MACT case No.53 of 1989)
Date of decision: 23.11.2023

Babu Lal

.....Claimant-Appellant

Versus

Balbir and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellant

Mr. Neeraj Khanna, Advocate for
respondent No.4-Insurance company

AMAN CHAUDHARY, J.

1. The present appeal has been filed by the claimant-appellant for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal') vide award dated 07.09.1990, on account of the injuries received by him in a motor vehicular accident.
2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for the last more than 32 years, the counsel for the Insurance Company has no objection, if the same is decided on basis of the available record.
3. It has been stated in the grounds of appeal that the injured-appellant was 18 years of age at the time of his accident, in which he had suffered severe grievous injuries and remained admitted in the hospital for more than a month and after discharge, he was again operated upon. He became permanently disabled. He was a student and had lost one year on account of the

accident. No amount has been paid for the expenses incurred for attendant during hospitalization and also for loss of amenities of life. The amount awarded is also on a lower side.

4. On the other hand, the learned counsel for the insurance company opposed the present appeal by stating that just and reasonable compensation has already been awarded to the appellant, which requires no enhancement.

5. Heard and perused.

6. There is no dispute with regard to the accident that was caused by respondent No.1, driver of the offending vehicle. So far as the fact of accident and manner of its taking place, as well as liability fastened upon the driver, owner and insurer of the offending vehicle, to be joint and several are concerned, it is pertinent to mention that no challenge to the same has been made and thus, this issue does not warrant any further scrutiny. Further, with regard to enhancement of the compensation, the appellant had suffered multiple injuries including fractures of left tibia, fractures of right femur and also of nasal bone, as proved from the statement of PW3-Dr. R.C. Jindal, on account of that, he remained as an indoor patient for seven days. No disability certificate was placed and proved on record.

7. The judgment in **Sidram vs. Divisional Manager, United India Insurance Co. Ltd. and another**, 2023(1) RCR (Civil) 44, would be worthwhile to be referred, wherein Hon'ble the Supreme Court observed that, "This Court has emphasised 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.

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/-”

8. Hon’ble The Supreme Court in **Mohd. Sabeer @ Shabir Hussain vs. Regional Manager, UP State Road Transport Corporation** 2023(1) RCR (Civil) 349, 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.

9. Considering 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 appellant deserves to be and is enhanced thus:

- i. Pain and suffering to: Rs.25,000/-
- ii. Medical treatment and for follow up to: Rs.20,000/-
- iii. Loss of amenities of life: Rs.25,000/-
- iv. Attendant, special diet and transportation etc.:15,000/-

10. Accordingly, the enhanced amount of compensation of Rs.73,000/-, over and above the amount of Rs.12,000/- already awarded by the Tribunal, shall be paid to the claimant-appellant 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. The component of interest payable on the enhanced amount shall be 7.5% per annum from the date of filing of the present appeal, till its realization.

11. Modifying the award to the aforesaid extent, the present appeal is disposed of.

12. Registry is directed to send a copy of the judgment to the concerned tribunal for necessary compliance.

23.11.2023
gsv/M.Kamra

(AMAN CHAUDHARY)
JUDGE

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