

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

FAO-2068-2001 (O&M)

Reserved on : 10.01.2023

Date of pronouncement: 12.01.2023

Tilak Raj

...Appellant

Versus

Sultan Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Rajesh Lamba, Advocate for the appellant.

Mr. Karan Jindal, AAG, Haryana.

H.S. MADAAN, J.

This is claimant's appeal seeking enhancement of compensation granted to him by Motor Accidents Claims Tribunal, Sonapat, vide award dt. 18.10.2000, on account of injuries suffered in a motor vehicular accident which took place on 22.09.1997 at about 08.15 pm, in the area of Village Sisana, District Sonapat, statedly on account of rash and negligent driving of bus No.HR-10-4517 (for short 'the offending bus') by respondent No.1 Sultan Singh.

The claimant had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), seeking compensation, against driver Sultan Singh, G.M. Haryana Roadways Depot, Sonapat and State of Haryana through Collector, Sonapat-owners of the bus in question.

2. After contest, vide award dt. 18.10.2000, compensation of Rs.90,000/- with interest @ 12% p.a., was granted to the claimant payable by respondents No.1 to 3 jointly and severally by Motor Accidents Claims Tribunal, Sonapat ((hereinafter referred to as 'the Tribunal').

3. The injured/claimant had suffered multiple injuries in the accident and was taken to Civil Hospital, Kharkhoda and thereafter, he remained admitted in PGIMS, Rohtak and was discharged on 23.09.1997. He was readmitted there on 10.10.1997 for conducting a surgery and was discharged on 13.10.1997. As per case of the claimant, he had spent considerable amount on his treatment and is still getting the treatment spending money.

4. The claimant felt dissatisfied with the amount of compensation given to him by the Motor Accidents Claims Tribunal, Sonapat and has approached this Court by way of filing of the present appeal, notice of which was given to the respondents, who have put in appearance through counsel.

5. I have heard learned counsel for the parties besides going through the record.

6. It may be mentioned here that the record of this case had got burnt in a fire which broke out in the record room of this Court, as such a very few documents are available, that too, in damaged condition. However, whatever could be made out from the documents, it comes out that the claimant had suffered multiple injuries resulting into causing permanent disability to the extent of 20%, as per disability certificate

Ex.P1. PW-1 Dr. S.S. Bhogal, Medical Officer, Civil Hospital, Sonapat who was member of the Board constituted by Civil Surgeon for assessing the disability of Tilak Raj-claimant, had stated that the claimant was examined on 13.05.1998 and they had found permanent disability to the extent of 20%.

7. PW-4 Dr. Zile Singh, Lecturer, Department of Orthopedics, PGIMS, Rohtak had stated that Tilak Raj remained admitted in PGIMS, Rohtak from 22.09.1997 to 23.09.1997, vide CR No.8091. He was suffering from fracture of both bones of forearm (left). Plaster was applied to his left forearm. Since the fracture could not be managed in plaster, he was again admitted in that institute on 12.10.1997 and discharged on 14.10.1997, vide CR No.10933 and he was operated upon on 13.10.1997. He while proving his operational notes Ex.P4, stated that plating was done for both bones of the forearm and plates were made available by the patient himself as the same are not available in the store of PGIMS, Rohtak. Thus, it comes out that the claimant was in a very bad condition when he was removed to the hospital.

8. The claimant appearing as PW-5 stated that on 22.09.1997, he was coming to Kharkhoda from Gohana, travelling in bus No.HR-10-4517. The driver of the bus was driving it at a very high speed, rashly and negligently. The passengers asked the driver to drive the bus carefully but he was adamant and when the bus reached within jurisdiction of PS Sisana near Narin Ashram, it struck a truck which was parked and full of fodder at about 8.15 pm. He stated that the accident had taken place due to rash and negligent driving of the bus driver and he had suffered

multiple injuries on left arm which was fractured besides sustaining injuries on left leg ribs etc. He stated that he has not fully recovered and had spent Rs.50,000/- on his treatment so far. He stated that he used to earn Rs.6000/- per month by running business of stitching at Gohana and was paying Rs.2500/- as salary to his employee and Rs.3500/- was his earning, however, he is not able to work.

Thus, monthly earning of Rs.6000/- by working as a tailor in the year 1997 cannot be termed to be inflated or exaggerated. His age at the time of the accident was about 22 years. A person has to use his arms and legs extensively while working on a sewing machine for avocation of a tailor and on account of suffering injuries on left arm, left leg ribs etc., his efficiency got reduced.

PW-5 Tilak Raj claimant in his statement categorically stated that because of the accident, he has not been able to work. Thus, the loss in terms of money to him can be calculated as Rs.1200/- per month. Being 20% of his monthly income, annual loss comes out to Rs.14,400/- (1200 X 12).

9. Considering his age, multiplier of 18 is to be used. Therefore, the loss is worked out to Rs.2,59,200/-.

Rs.50,000/- is said to have been incurred by him on his treatment. Although, the bills placed on record by the claimant are not of that value but I find that if we take into consideration the multiple injuries suffered by him including fractures in the left arm and injuries on left leg ribs etc., as well as fact that he had to undergo surgery for joining of the bones and remained hospitalized, he is to be compensated under various

heads i.e., for special diet, travelling expenses, expenses for engaging personal attendant etc., as well as for pain suffering and affecting of his marital prospects due to suffering injuries and loss of amenities inasmuch as he will not be able to live like a normal human being in future on account of injuries suffered. In my view, a total sum of Rs.1 lakh in that regard would be sufficient to be awarded to compensate the claimant for such losses. Thus the total compensation payable in that way comes out to Rs.3,59,200/-. It is enhanced to such amount from original compensation of Rs.9,0000/- awarded by the Tribunal. Such compensation would be payable by respondents No.1 to 3 jointly and severally with interest @ 7.5% p.a., from the date of filing of claim petition till actual realization besides costs throughout.

The appeal stands partly allowed.

12.01.2023

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No