IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3459-2002(O&M)
Order Reserved On: 19.05.2023
Order Pronounced On: 06.06.2023

Jitender .... Appellant

Versus

Krishan and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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Present: Mr. Kulvir Narwal, Advocate and
Mr.Satish Kumar, Advocate for the appellant.

Mr.Rahul Pathania, Advocate
for respondent No.3-National Insurance Company Ltd.

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HARPREET SINGH BRAR, J.

1. This is an appeal seeking enhancement of compensation granted to the appellant/claimant by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as ‘the Tribunal’ for short) vide award dated 02.05.2002 in a claim petition filed by him under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as ‘the Act’ for short) on account of injuries received by him in a motor vehicular accident.

FACTUAL BACKGROUND

2. In a nutshell, the facts of the case are that on 15.01.2001, at about 8.00 p.m., the appellant was sitting in his rented shop when a truck bearing registration No. HR46/4997, being driven by respondent No.1 in a rash and negligent manner and at a fast speed, came from Sunaria Post

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Office side and dashed into his shop. As a result of the impact, the grocery articles lying in his shop were damaged badly and the appellant also suffered multiple injuries including fracture of his both legs. Soon after the accident, the appellant became unconscious and the driver of the truck fled from the spot. As per the disability certificate on record, the appellant has suffered 10% temporary disability on account of limitation of movements at the ankle and knee joint.

3. The appellant/claimant averred that he used to earn around Rs. 8000/- per month from his grocery shop. Learned Tribunal awarded him a consolidated amount of Rs. 9500/- only along with interest at the rate of 9% p.a. from the date of filing of the petition till realisation.

ANALYSIS AND OBSERVATION

4. After hearing learned counsel for the parties and perusing the record with their able assistance, this Court finds that in the facts and circumstances of the case, the impugned award is liable to be modified and the quantum of compensation is required to be redetermined in view of the law laid down by the two-Judge Bench of the Hon'ble Supreme Court in **Raj Kumar vs. Ajay Kumar, 2011(1) SCC 343.** Speaking through Justice R.V. Raveendran, the Court had laid down the following guidelines for awarding compensation under different heads for personal injury:

> *"6. The heads under which compensation is awarded in personal injury cases are the following :*
>
> ***Pecuniary damages (Special Damages)***
>
> *(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous*
>
> *expenditure.*
>
> *(ii) Loss of earnings (and other gains) which the injured would*

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have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life."

5. A two-Judge Bench of the Hon'ble Supreme Court in **R.D. Hattangadi v. Pest Control (India) Pvt. Ltd., 1995 (1) SCC,** speaking through Justice N.P.Singh, observed as under:-

"9. Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the

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date of trial; (iii) other material loss. So far non- pecuniary damages are concerned, they may include:

(i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e., on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life."

6. Undisputedly, the appellant was sitting in his shop when the offending vehicle in question i.e. truck No. HR-46/4997 dashed into his shop resulting in multiple injuries to him including fracture of his both legs. PW2-Dr. S.C.Sharma, Head of the Department, PGIMS Rohtak, who was A member of the board which assessed disability of the injured-claimant/appellant, deposed that the appellant had suffered 10% temporary disability on account of limitation of movements (last 10°) at ankle and knee joint on the right side and proved the disability certificate Ex.P1 on record.

6. The learned Tribunal has only awarded a consolidated sum of Rs. 9500/- as compensation under all the heads which is on the lower side. As per the latest notification of the Department of Labour, Government of Haryana dated 26.04.2023, the minimum wage of an unskilled labourer is fixed at Rs. 405/- per day. Keeping in view the inflation and other factors the minimum wage for the year 2001 should be at least Rs. 100/- per day. Accordingly the monthly income of the deceased is assessed as Rs. 3000/-. The amount of compensation under various heads is redetermined under

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different heads in the following manner:-

Sr.No.	Compensation	Amount
1.	Income for a period of six months	Rs. 3000/- x 6= Rs.18,000/-
2.	Future Medical Expenses	Rs. 20,000/-
3.	Cost of litigation	Rs. 25,000/-
4.	Special diet	Rs. 10,000/-
5.	Pain and suffering	Rs. 40,000/-
6.	Loss of amenities	Rs.20,000/-
	Total	**Rs. 1,33,000/-**

7. Accordingly, this appeal is allowed and the impugned award is modified to the extent that compensation amount of Rs. 1,33,000/- along with interest at the rate of 7.5% p.a. (in view of the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation, 2009(6) SCC 121 and National Insurance Company vs. Pranay Sethi, (2017) 16 SCC 680)** from the date of filing of the claim petition till the date of actual payment, is liable to be paid by the respondent No.3-insurance company within a period of two months from the date of passing of the order. The amount of compensation already awarded is liable to be deducted from the enhanced amount of compensation.

8. Pending application(s), if any, shall also stand disposed of.

9. Registry is directed to send a copy of this order to learned Motor Accident Claims Tribunal, Rohtak/Executing Court for compliance of the same.

(HARPREET SINGH BRAR)
JUDGE

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Whether speaking/non speaking : Yes/No
Whether reportable/non reportable : Yes/No

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