

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

**FAO-3142-2018 (O&M)  
Date of decision : 25.01.2023**

Dev Raj

... Appellant(s)

Versus

Gurpreet Singh & Ors.

... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Rajiv Joshi, Advocate for the appellant.

Mr. Amandeep Chhabra, Advocate for respondent Nos.1 and 2.

Mr. Rajesh Verma, Advocate for respondent No.3.

**ALKA SARIN, J. (ORAL)**

The present appeal has been preferred by the injured claimant-appellant against the award dated 15.01.2018 passed by the Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (hereinafter referred to as 'Tribunal').

The only grievance of the claimant-appellant in the present case is qua the quantum of compensation awarded by the Tribunal. Since the factum of the accident and the other facts are not in dispute, the same are not being reproduced herein for the sake of brevity.

Learned counsel for the claimant-appellant would contend that the claimant-appellant remained admitted in hospital from 02.07.2015 to 07.10.2015 as per the evidence available on the record. It is further

contended that though the disability certificate states the disability of the claimant-appellant is 75%, however, as per the disability certificate (Ex.CW4/A), it is a case of “*ACUTE SDH LEFT SIDE WITH MULTIPLE HAEMORRHAGIC CONTUSIONS WITH RIGHT FRONTAL SAH WITH BLUNT .....* ”. It has further been mentioned that he was operated for “*LEFT FRONTOTEMPOROPARIETAL CRANIOTOMY WITH LAX DUROPLASTY DONE*”. The disability certificate itself states that the patient is unconscious, bedridden and is being fed through a ryles tubes and cannot do his daily routine activities and needs supportive attendant around him the whole day. Learned counsel for the claimant-appellant would further contend that the Hon’ble Supreme Court in the case of **Abhimanyu Partap Singh Vs. Namita Sekhon & Anr. [2022 (3) RCR (Civil) 557]** had assessed the attendant charges for the injured who is totally confined to the bed as Rs.5,000/- for his whole life, calculating the compensation applying the multiplier of ‘18’. He would further contend that keeping in view the condition of the claimant-appellant, his disability ought to have been assessed as 100% and he would be entitled to the attendant charges as granted in the case of **Abhimanyu Partap Singh** (supra). Learned counsel would further contend that the amount awarded towards pain and sufferings and various other heads are also on the lower side.

*Per contra*, learned counsel for the respondents have contended that the disability has been assessed as 75% as per the disability certificate and there is no reason to assess the disability of the claimant-appellant as 100%. It is further the contention of that keeping in view the age of the claimant-appellant, multiplier method and future prospects would not be

applicable. It is further the contention that there is no scope of enhancement in the present case.

Heard.

In the present case, the Tribunal has awarded the following compensation :

| Sr. No. | Heads                                                                                                                                                                        | Compensation Awarded                                 |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| 1       | Medical expenses (bills/receipts) & permanent disability                                                                                                                     | Rs.4,10,800/-                                        |
| 2       | Other material loss/expenses of attendant                                                                                                                                    | Rs.50,000/-                                          |
| 3       | Damages for mental and physical shock, pain and sufferings already suffered or likely to be suffered in future                                                               | Rs.50,000/-                                          |
| 4       | Damages to compensate for the loss of emanates of life which may include a variety of matters i.e. on account of the injury the claimant may not be able to walk, run or sit | Rs.50,000/-                                          |
| 5       | Damages for the loss of expectation of life i.e. on account of injury the normal longevity of person is shortened                                                            | Rs.50,000/-                                          |
| 6       | Inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life, including special diet                                                           | Rs.50,000/-                                          |
| 7       | <b>Total Compensation</b>                                                                                                                                                    | <b>Rs.6,50,800/-<br/>Rounded of to Rs.6.51 Lakhs</b> |
|         | <b>Interest</b>                                                                                                                                                              | <b>7.5% per annum</b>                                |

In the present case, as per the evidence on the record and as per the disability certificate, the injured claimant-appellant remained admitted in hospital from 02.07.2015 to 07.10.2015. As per the disability certificate, the injured-appellant suffered disability to the extent of 70%, however, it has

been noted in the disability certificate that it was a case of “*ACUTE SDH LEFT SIDE WITH MULTIPLE HEMORRHAGIC CONTUSIONS WITH RIGHT FRONTAL SAH WITH BLUNT .....*”. It has further been mentioned that he was operated for “*LEFT FRONTOTEMPOROPARIETAL CRANIOTOMY WITH LAX DUROPLASTY DONE*” and that he was in unconscious state and totally bedridden and was being fed through a Ryles Tube and cannot do his daily routine activities and needs supportive attendant around him the whole day. Keeping in view the condition of the claimant-appellant, his disability ought to be treated as 100%. However, keeping in view the age of the claimant-appellant, no amount can be awarded towards future prospects and because the injured is receiving his pension a multiplier method also cannot be applied. However, the claimant-appellant would be entitled to the attendant charges since he would require an attendant for the rest of his life. The attendant charges are assessed as Rs.6,40,731/- (Rs.7627.75 x 12 x7) i.e. as per the minimum wages prevalent at that point of time x 12 months x multiplier of ‘7’ as per the law laid down in the case of **Abhimanyu Partap Singh** (supra). The claimant-appellant would also be entitled to an amount of Rs.5,00,000/- towards pain and suffering and an amount of Rs.5,00,000/- towards loss of amenities of life. The amount of Rs.4,10,800/- awarded by the Tribunal towards medical expenses as well as the amount of Rs.50,000/- towards special diet etc. are maintained. Accordingly, the compensation is re-worked out as under :

| Sr. No. | Heads             | Compensation Awarded        |
|---------|-------------------|-----------------------------|
| 1       | Medical Expenses  | Rs.4,10,800/-               |
| 2       | Special Diet      | Rs.50,000/-                 |
| 3       | Attendant Charges | Rs.6,40,731/-(7627.75x12x7) |

|   |                                       |                       |
|---|---------------------------------------|-----------------------|
| 4 | Pain and Sufferings                   | Rs.5,00,000/-         |
| 5 | Loss of amenities of life             | Rs.5,00,000/-         |
|   | <b>Total Compensation</b>             | <b>Rs.21,01,531/-</b> |
|   | <b>Amount Awarded by the Tribunal</b> | <b>Rs.6,51,000/-</b>  |
|   | <b>Enhanced amount</b>                | <b>Rs.14,50,531/-</b> |

The enhanced amount shall carry an interest @ 7.5% from the date of filing of the claim petition till realization.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

25.01.2023

Yogesh Sharma

( ALKA SARIN )

JUDGE

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO