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2023:PHHC:166632

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

FAO-8621-2017 (O&M)

Date of decision: 06.10.2023

Amar Singh

... Appellant

Versus

Mohinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Pankaj Gupta, Advocate, for the appellant.

Service of respondents No.1 and 2 dispensed with
vide order dated 17.09.2019.

Mr. Vinod Gupta, Advocate, for respondent No.3.

GURBIR SINGH, J.

CM-9963-CII-2023

Prayer in this application seeking early date of hearing in the
main case.

Since main case itself is fixed today, so this application has
become infructuous and it is disposed of as such.

FAO-8621-2017

1. This appeal has been filed by the appellant-claimant against the
award dated 29.03.2017 passed by Motor Accident Claims Tribunal, Hisar,
for enhancement of compensation.

2. The parties are being addressed as per original claim petition.
The claimant-Amar Singh filed a claim petition under Section 166 of
the Motor Vehicles Act, 1988 for grant of compensation on account of
injuries suffered by him in a motor vehicular accident which took place on

25.04.2014, on the ground that on the said date at about 5.00/6:00 P.M., he along with Anil was returning to his village after finishing their work on a motorcycle which was being driven at a very moderate speed and observing all the traffic rules. When he reached near Shani Mandir, in the meantime, a bus bearing No.HR39-B-5700, which was being driven by respondent No.1 at a very high speed and in a rash and negligent manner, came from the opposite side and directly hit the motorcycle of the claimant and as a result of which, the motorcycle fell down and the claimant along with Anil fell down and received multiple injuries on various parts of the body. The claimant was taken to General Hospital, Hisar, but due to his serious condition, he was taken to Sapra Hospital, Hisar where he remained admitted w.e.f. 25.04.2014 for about three months. An FIR was also registered against respondent No.1-driver.

2.1 Upon notice, respondents No.1 and 2 i.e. driver and owner of offending bus, appeared and contested the claim petition *inter alia* on the ground that no accident had taken place with their vehicle. Respondent No.1 was falsely implicated in a criminal case.

2.2 Respondent No.3-Insurance Company took a plea that respondent No.1-driver of the bus was not holding valid driving licence at the time of accident. The claimant had falsely involved the offending vehicle in the present case just to grab compensation.

2.3 In order to prove his case, the claimant himself stepped into the witness box as PW3 and also examined Dr. M.K. Garg, SMO as PW1; Shiv Nagar, Medical Attendant as PW2; Dr. Tarun Sapra as PW4. The claimant proved his disability certificate as Ex.P1; Medical Bills as Exs.P2 to P74;

Discharge summary and certificate of Sapra Hospital as Exs.P75 to P78; Bills of Sapra Hospital amounting to Rs.68,900/-; Medical bill as well as hospital bill as Exs.P80 to P96; Report under Section 173 Cr.P.C. as Ex.P97; attested copy of charge framed against respondent No.1 as Ex.P98 and FIR as Ex.P99. On the other hand, respondents tendered RC of offending vehicle as Ex.R1; Certificate of fitness as Ex.R2; Driving Licence of respondent No.1 Mahender Singh as Ex.R3; State carriage permit as Ex.R4; Insurance policy as Ex.R5 and closed the evidence.

2.4 The learned Tribunal, on the basis of evidence brought on the file, came to the conclusion that the accident took place due to rash and negligent driving of bus of respondent No.1 and the claimant suffered injuries in the said accident. The Tribunal granted the amount of compensation to the claimant as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Hospital and medical bills	2,51,896
2.	Pain and suffering	6,000
3.	On account of disability	80,000
4.	Loss of income	7,000
5.	Special diet	5,000
	Total	3,49,896 rounded off to 3,50,000

3. Learned counsel for the appellant-claimant has argued that no compensation has been awarded for further treatment, loss of enjoyment/ amenities and loss of future income. The claimant remained admitted in hospital for three months and three operations of his leg were performed. A rod was inserted. His leg has been shortened. The doctor has advised one more operation which requires Rs.2 lakhs. For grant of loss of future income,

multiplier method was required to be taken into consideration, but the Tribunal awarded compensation @ Rs.2,000/- per percentage of disability.

3.1 It has been further argued that now the disability of the claimant is 60% as per the latest certificate (Annexure A-1) issued by the competent authority. As the claimant has not recovered, the doctor has advised to amputate his leg as infection is growing.

4. Learned counsel for the respondent No.3 has argued that just compensation has been awarded to the claimant in accordance with the established principle and award passed by the Tribunal is in accordance with the law.

5. I have heard the submissions of learned counsel for the claimant-appellant and respondent No.3-Insurance Company, and have gone through the file.

6. As per medical record, the claimant suffered many injuries including fracture of right tibia and right ulna bone. The claimant had undergone three operations and a rod was also inserted in his leg, but his right leg has been shortened. The claimant remained admitted in the hospital w.e.f. 25.04.2014 to 14.05.2014 and again w.e.f. 17.06.2014 and was discharged on 30.07.2014. He would have visited doctor for follow-up treatment. As per latest disability certificate (Annexure A-1), the claimant was found to be a case of locomotor disability. He was diagnosed as PPRP right lower limb and disability was found to be 60% as permanent in relation to his foot. For the purpose of assessing loss of future income, the court is required to grant compensation for the loss of income by assessing the functional disability and not permanent physical disability. As per case *Raj*

Kumar Versus Ajay Kumar and another, (2011) 1 Supreme Court Cases

343, for calculating the amount of compensation, multiplier method is required to be taken into consideration. Since the claimant was not doing any office work/desk work but was only doing labour work, so it is now not possible for him to do labour work when functional disability of the claimant has been assessed as 60% as permanent.

6.1 Keeping in view the minimum wages of an unskilled worker which was Rs.213.35 per day in the State of Haryana in the year 2014, so the income of the claimant is assessed as Rs.6,000/- per month. In the Disability Certificate, the date of birth of the claimant has been recorded as 01.01.1982 and at that time, he was 32 years of age, so multiplier of 16 is required to be applied.

6.2 Considering the case of the claimant, this Court re-assess the amount of compensation as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Hospital and medical expenses	2,51,896
2.	Pain and suffering	6,000
3.	Loss of income for three months	18,000/- (6,000 x 3)
4.	Loss of future income	6,91,200 (60% of 6,000=3,600x12x16)
5.	Special diet	5,000
6.	For operation/removal of rod from the leg	50,000
	Total	10,22,096
	Enhanced	6,72,096/- (Rs.10,22,096-Rs.3,50,000)

7. Thus, the appellant-claimant shall be entitled for a total sum of Rs.6,72,096/- over and above the amount already awarded by the Tribunal and the enhanced amount shall carry interest @ 7.5% per annum from the

date of filing of claim petition till date of its realization. The said amount be paid directly in the account of appellant-claimant as held by the Tribunal.

8. In view of above, the award stands modified and the appeal is allowed to the above extent.

(GURBIR SINGH)
JUDGE

October 06, 2023
sanjeev

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