

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

FAO-997-1991 (O&M)
Date of decision: 16.01.2024

Dev Parkash

.....Injured-Appellant

Versus

Walaiti Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellant.

None for respondent Nos.1 & 2.

Mr. Dishant Jindal, Advocate for
Mr. Ashwani Talwar, Advocate,
for respondent No.3-Insurance Company.

AMAN CHAUDHARY, J.

1. Injured-appellant has filed the present appeal seeking enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal'), vide award dated 06.05.1991, 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 33 years, learned counsel for respondent No.3-Insurance Company has no objection, in case the same is decided on the basis of the available record.
3. It has been stated in the grounds of appeal that the injured-appellant, aged 61 years at the relevant time, had met with an accident, wherein he had sustained injuries on head as well as on shoulder

and fracture of the left hip. He remained hospitalised from 22.01.1990 to 26.01.1990. He was doing Hosiery business in partnership and on account of the accident, suffered a huge loss. However, the Tribunal has awarded a meager amount of Rs.12,500/-.

4. On the other hand, the learned counsel for respondent No.3-Insurance Company has 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. To proceed further, it would be worthwhile to refer to the judgment in **Sidram vs. Divisional Manager, United India Insurance Co. Ltd. and another**, 2023(1) RCR (Civil) 44, relating to an accident that took place on 18.07.2012, wherein the injured-claimant was struck by a goods vehicle being driven in a rash and negligent manner, causing permanent disability to the extent of 45%, and he was awarded Rs. 6,13,000/- by Motor Accidents Claims Tribunal, Belgaum, vide order dated 21.01.2014, which was enhanced by the High Court to the tune of Rs. 9,26,800/- vide order dated 25.04.2018 and when the appellant, feeling aggrieved, approached Hon'ble the Supreme Court, it was enhanced by observing that, "This Court has emphasized 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

functional disability severely impacting his earning capacity and having to use prosthetic limb, was awarded a compensation of Rs. Rs.15,76,465/- by the Motor Accident Claim Tribunal, Delhi-II, Dwarka Court, New Delhi by an order dated 08.02.2013, which stood modified by the High Court to the extent of Rs.16,70,932/- vide order dated 11.09.2018. Being unsatisfied, the appellant approached Hon'ble the Supreme Court and was 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) while observing therein 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.

8. Moving to the present case, there is no dispute with regard to the accident, in which the appellant had suffered multiple injuries. Pertinently, since there is no challenge to the factum of the accident, the 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, this issue does not warrant any further scrutiny. Admittedly, the appellant remained hospitalised for five days on account of the injuries suffered. The Tribunal had awarded a consolidated amount Rs.12,500/- to the appellant on all heads, which is inadequate.

9. Keeping in view 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 is required to be enhanced thus:

1. Pain and suffering :	Rs.20,000/-
2. Medical treatment and follow up :	Rs.20,000/-
3. Attendant, special diet, conveyance charges :	Rs.10,000/-
4. Loss of amenities/enjoyment of life :	Rs.10,000/-
5. Loss of income:	Rs.10,000/-
total:	Rs.70,000/-

10. Accordingly, the enhanced amount of compensation of Rs.57,500/- over and above the amount of Rs.12,500/- already awarded by the Tribunal. However, the rate of interest on the enhanced amount, in view of the judgment in **Dharampal vs. U.P. SRTC**, (2008) 12 SCC 208, shall be 7.5% per annum, accruing from the date of the award, till its realization, which will 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 carry an interest at the rate as already awarded by the Tribunal.

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.

(AMAN CHAUDHARY)
JUDGE

16.01.2024
Ankur

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