

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

204

FAO-978-1994 (O&amp;M)

Date of decision: 15.01.2024

Rajinder Parshad

.....Claimant-Appellant

Versus

Balbir Singh and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present: Mr. Sachin Mittal, Advocate, for the appellant.

Mr. Deepak Suri, Advocate,  
for respondent No.3-Insurance Company.

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**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, Sonapat (for short 'the Tribunal'), vide award dated 01.02.1994, 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 30 years, learned counsel for the appellant as well as learned counsel for respondent No.3 have no objection, in case the same is decided on the basis of the available record.
3. Learned counsel contends that the injured-appellant, aged 37 years at the relevant time, had met with an accident, wherein he had suffered multiple injuries and fractures on his left pelvis, right thigh and bladder as well as on nose and forehead, which got disfigured. He sustained 30% disability on account of hip

replacement, which is permanent in nature. The Tribunal has awarded an amount of Rs.80,000/-, which is inadequate.

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 assures some measure of restitution to those who survive, and the victims who have to face their lives." Further, while allowing the appeal the compensation was enhanced by taking into consideration the following:

$$X_X \quad \quad \quad XX \quad \quad \quad XX$$

1. Loss of earning due to disability :Rs.7,77,600/-

- |     |                                     |                 |
|-----|-------------------------------------|-----------------|
| 1.  | Loss of earning due to disability : | Rs.7,77,600/-   |
| 2.  | Loss of earning for 6 months:       | Rs.48000/-      |
| 3.  | Medical expenses                    | Rs.1,55,000/-   |
| 4.  | Future medical expenses             | Rs.2,16,000/-   |
| 5.  | Attendant charges                   | Rs.4,32,000/-   |
| 6.  | Litigation charges                  | Rs.50,000/-     |
| 7.  | Loss of conveyance                  | Rs.50,000/-     |
| 8.  | Pain and suffering                  | Rs.1,00,000/-   |
| 9.  | Marriage prospects                  | Rs.3,00,000/-   |
| 10. | Loss of amenities                   | Rs.50,000/-     |
|     | Total                               | Rs.21,78,000/-” |

Ankur Goyal  
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I attest to the accuracy and  
integrity of this order/judgment

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. So far as the fact of accident and 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 are concerned, it is pertinent to mention that no challenge to the Award has been made and thus, this issue does not warrant any further examination. With regard to enhancement of the compensation is concerned, Dr.SK Moda, PW6 stated that appellant was admitted in the hospital on 9.12.1990 in the Surgical ward due to fracture of pelvis with fracture of acetabulum left side, for which he was treated conservatively by tibial pin traction. He was discharged on 02.01.1991. He was examined at follow up. There was a fixed flexion deformity of the left hip by 45 degree and there was rotational movements of the left hip and internal rotation of it was not possible at all. The said doctor opined 30% permanent disability due to pelvic injury and left hip. However, the Tribunal has awarded a sum of Rs.80,000/- 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.50,000/-   |
| 2. Medical treatment and follow up :                         | Rs.50,000/-   |
| 3. Attendant, special diet, conveyance charges :             | Rs.50,000/-   |
| 4. Loss of amenities/enjoyment of life :                     | Rs.75,000/-   |
| 5. For physical disability to the extent of 30% (2000 x 30): | Rs.60,000/-   |
| total                                                        | Rs.2,85,000/- |

10. Accordingly, the enhanced amount of compensation of Rs.2,05,000/- over and above the amount of Rs.80,000/- 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.

(AMAN CHAUDHARY)  
JUDGE

15.01.2024  
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Whether speaking/reasoned : Yes / No  
Whether reportable : Yes / No