

(2002) 04 P&H CK 0025

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from Order No. 770 of 2000

Jarnail Singh

APPELLANT

Vs

Sajjan Singh

RESPONDENT

Date of Decision: April 10, 2002

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (2003) ACJ 1808 : (2003) 133 PLR 171 : (2002) 4 RCR(Civil) 526

Hon'ble Judges: N.K. Sud, J; G.S. Singhvi, J

Bench: Division Bench

Advocate: R.S. Mamlili, for the Appellant; M.S. Guglani, for the Respondent

Final Decision: Allowed

Judgement

N.K. Sud, J.

The claimant in this appeal seeks enhancement of the amount of compensation of Rs. 60,000/- awarded by the Motor Accident Claims Tribunal, Jagadhri (for short "the Tribunal") vide its order dated 5.11.1999.

2. On 7.6.1997, appellant-claimant Jarnail Singh and his brother Shamsher Singh were coming from Kurukshetra to their village Sadiqpur in a Maruti car No. DL-2CA-2380. When they reached Shahbad Markanda-Saha Chowk at about 12 noon, a military Jeep No. 92-B 53326-H coming from Ambala side struck against their car. It was claimed that the Jeep was being driven at a very high speed in a rash and negligent manner and did not even blow any horn. As a result, the car of the claimant fell into the ditch and he and his brother Shamsher Singh suffered multiple and grievous injuries. They were taken to Civil Hospital, Shahbad Markanda. However, Shamsher Singh died on the way. The appellant had suffered fracture of his right arm and also other multiple injuries, He remained admitted in Civil Hospital, Shahbad Markanda for five hours and, then, was shifted to the Gaba Hospital, Yamuna Nagar for treatment. Since he could not get proper relief at that

place, he was taken to K.D. Sharma Hospital at Ambala Cantt. Three operations were performed on his right arm for which he had to remain in the hospital for three different spells of time. However, his right arm was not fully cured and he now suffers from a permanent physical disability to the extent of 15%. The claim of the appellant was duly supported by the medical reports and also by the testimony of Dr. K.D. Sharma who had performed the operations.

3. On consideration of oral and documentary evidence, the Tribunal accepted the claim of the appellant that the accident had taken place due to rash and negligent driving by the driver of the offending Jeep. The Tribunal also noticed the medical evidence and the fact that the appellant had suffered a permanent physical disability to the extent of 15%. Accordingly, a sum of Rs. 60,000/- was awarded as compensation under the following heads:-

i)	Rs.
Permanent disability	30,000.00
ii)	Rs.
Medical expenses	24,000.00
iii)	Rs.
Extra direct	6,000.00

The appellant has filed this appeal seeking enhancement in the compensation.

4. Mr. R.S. Mamli, counsel for the appellant, pointed out that the appellant was a Head Teacher in the Education Department getting a salary of Rs. 6,000/- per month. He submitted that he had been under treatment for a period of about six months and had undergone three operations and had incurred medical expenses as per bills, Exhs. P-13 to P-56, to the tune of Rs. 71,912/- He further pointed out that the appellant now suffers from a permanent disability to the extent of 15% and has to live with it for the rest of his life and, therefore, the compensation awarded by the Tribunal was grossly inadequate.

5. Mr. M.S. Ouglani, appearing on behalf of Union of India, supported the order of the Tribunal. He could not controvert the claim of the appellant about the permanent disability or his having undergone three operations and remaining under treatment for a period of about six months. The only contention raised by him was that the medical bills had not been proved on record as per law.

6. We have heard learned counsel for the parties and perused the order of the Tribunal. We are of the considered view that the compensation awarded by the

Tribunal is indeed grossly inadequate. A Head Teacher drawing a salary of Rs. 6,000/- per month has suffered a permanent disability of 15% on his right arm. He has to live with it for the rest of his life. The sum of Rs. 30,000/- awarded by the Tribunal for this disability is very much on the lower side. The contention raised by Mr. Guglani that the medical bills had not been proved as per law has no merit. It is not in dispute that the appellant had been admitted to the hospital on three occasions for three operations. Even if the medical expenses were to be estimated, the amount claimed to have been spent by the appellant cannot be doubted.

7. Keeping in view the totality of the circumstances, we modify the award of the Tribunal and direct the respondents to pay an additional compensation of Rs. 90,000/-with interest at the rate of 12% per annum from the date of application to the date of payment. The amount of interest shall be calculated on the difference of the amount awarded by this Court.

In the result, the appeal is allowed to the above extent.

No costs.

Sd/- G.S. Singhvi, J.