

**(2019) 04 P&H CK 0131**

**In the Punjab And Haryana At Chandigarh**

**Case No : First Appeal Order No. 1531 Of 2001(O&M)**

Assa Ram

APPELLANT

Vs

Zile Singh And Others

RESPONDENT

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**Date of Decision :** 24-04-2019

**Acts Referred:**

Indian Penal Code, 1860 — Section 279, 337

**Citation :** (2019) 04 P&H CK 0131

**Hon'ble Judges :** Kuldip Singh, J

**Bench :** Single Bench

**Advocate :** Sanjay Majithia, Inderjit Singh, Ramesh Kumar Ambawata

**Final Decision :** Allowed

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## **Judgement**

This appeal has been filed by the claimant against the award dated 8.3.1999, passed by Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') for enhancement of compensation.

Facts of the case are that on 1.9.1996, Asha Ram claimant was travelling in a bus bearing registration number HR-46-0224, coming from Delhi to Jind. It was being driven by Zile Singh respondent No.1 at a high speed in a zigzag manner. When the bus reached near the village Budha Khera, a tractor came on the road from the left side. The driver of the bus took a little turn but due to fast speed he could not control the same and struck against the tree. The petitioner, bus driver and other passengers were injured. The people from the locality removed the injured to Civil Hospital, Jind. FIR No.151 dated 2.9.1996 under Sections 279 and 337 IPC was registered against respondent No.1 at Police Station, Julana.

Claimant claimed that he was 46 years of age and was working as Steno to General Manager, Roadways Jind. He was initially examined at Civil Hospital, Jind but due to serious condition, he was referred to Delhi. He was first taken to Sir Ganga Ram Hospital, Delhi, where CAT scanning was done. But as no room was available in Intensive Care Unit, therefore, the petitioner was shifted to Kilmet

Hospital and Medical Research Centre, New Delhi, where he remained admitted from 1.9.1996 to 19.9.1996. Thereafter, he was shifted to Sir Ganga Ram Hospital, Delhi on 19.9.1996, from where, he was discharged on 12.11.1996 and was readmitted on 17.11.1996 and discharged on 17.12.1996. Claimant is still under treatment and regularly visiting the hospital. Claimant was also operated for serious brain injury. The memory of the claimant has faded and he has developed neurological problems. Claimant cannot walk properly and he has become almost blind. His vision from one eye is zero and vision from other eye is only 4/60%. The face of the petitioner has become ugly and his left eye has been distorted. Petitioner had spent Rs.3,25,000/- approximately on treatment. He suffered salary loss of Rs.30,000/- and future income of Rs.8,64,000/-. He spent Rs.2,00,000/- on conveyance, Rs.50,000/- on special diet. Claimant claimed compensation to the tune of Rs.24,29,000/-.

Respondent no.1 in the reply, took plea that the accident took place due to fault of the tractor driver and that he was not at fault. Respondent nos.2 and 3 also denied the claim of the claimant.

From the pleadings, the following issues were framed:-

1. Whether the accident in question took place due to rash and negligent driving of respondent no.1 driver of bus No.HR-46/0224 in which the petitioner suffered injuries? OPP

2. If issue no.1 is proved in the affirmative, to what amount of compensation the petitioner is entitled to and from whom?

OPP

3. Relief

While deciding issue no.1, the Tribunal held that accident took place due to rash and negligent driving of bus driver-respondent no.1. While deciding issue no.2, the Tribunal, after considering the disability, injuries and the medical bills, assessed compensation to the tune of Rs.Ten lakhs. The same was accordingly allowed with interest @ 12% from the date of filing of claim petition till realization.

I have heard learned counsel for the parties and have also carefully gone through the record.

The learned counsel for the claimant-appellant has pressed for increase in the compensation. As per disability certificate (Ex.PB), claimant suffered 78.8% disability, detail of which is as under:-

1. Disability relating ophthalmology 40%

2. Disability relating to psychiatry 10%

3. Disability relating to ENT is 18.8%

4. The remaining disability to the extent of 10% was attributed to disfigurement and other factors.

Admittedly, according to the appellant-claimant, he was working as Steno to General Manager, Roadways Jind but now, on account of disability, he has been given light seat. However, there is no loss of income, though the appellant-claimant suffered pain and suffering and loss of enjoyment of life. Appellant-claimant produced medical bills (Ex.P1 to Ex.P317) amounting to Rs.5,30,000/-.

On account of 78.8% disability and disfigurement of face, the appellant-claimant is entitled to Rs.3,50,000/- compensation. Appellant- claimant remained admitted in hospital for 3-½ months from 1.9.1996 to 17.12.1996. One attendant was likely to be present for this period. Therefore, for pain and suffering and for services of attendant, Rs.one lakh is to be allowed. Appellant-claimant has claimed that he cannot enjoy the life. He cannot walk properly and always need assistance. He has also lost sexual power. Therefore, for loss of enjoyment of life, Rs.one lakh are to be allowed.

In view of the fact that the petitioner had to undergo brain injury and he will need special diet, Rs.50,000/- on account of special diet are allowed. Therefore, compensation is to be calculated as under:-

|                               |                |
|-------------------------------|----------------|
| Medical expenses              | Rs.5,30,000/-  |
| For 78.8% disability          | Rs.3,50,000/-  |
| and disfigurement of face     |                |
| For pain and suffering        | Rs.1,00,000/-  |
| and attendant                 |                |
| For loss of enjoyment of life | Rs.1,00,000/-  |
| For special diet              | Rs.50,000/-    |
| -----                         |                |
| Total                         | Rs.11,30,000/- |
| -----                         |                |

In view of the foregoing discussion, compensation is enhanced from Rs.Ten lakhs to Rs.11,30,000/-. The enhanced compensation be paid with interest @ 6% per annum from the date of filing of claim petition till payment.

The appeal is accordingly allowed.