

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

**FAOs (MVA) No. 121 and 122 of
2012.**

Date of decision: 28.10.2016.

FAO No. 121 of 2012.
Amrit Pal Singh Appellant
Versus
Smt. Geeta Devi and others ...Respondents.

FAO No. 122 of 2012.
Swatanter Singh Sodhi Appellant
Versus
Smt. Geeta Devi and others ...Respondents.

Coram:
The Hon'ble Mr. Justice Mansoor Ahmad Mir, Chief Justice.

Whether approved for reporting ?¹ Yes

*For the appellant(s): Mr. G.R. Palsara, Advocate.
For the respondent(s): Mr. H.S. Rangra, Advocate, for
respondents No. 1 to 5.
Ms. Seema Sood, Advocate, for
respondent No.6.*

Mansoor Ahmad Mir, Chief Justice, (Oral).

Both these appeals are outcome of one accident, hence are taken up together for disposal by this common judgment.

2. FAO No. 121 of 2012 is directed against the judgment and award dated 7.1.2012, in claim

¹ *Whether the reporters of Local Papers may be allowed to see the judgment ?.*

Petition No. 19 of 2007 titled Shri Amrit Pal Singh versus Bhag Chand and others and FAO No. 122 of 2012, is directed against the award dated 7.1.2012 in claim petition No. 18 of 2007 titled Shri Swatanter Singh versus Bhag Chand and others, for short “the impugned awards”, passed by the Motor Accident Claims Tribunal (II), Mandi, H.P. hereinafter referred to as “the Tribunal”, for short.

3. In both these appeals claimants have sought enhancement of compensation on the grounds taken in the memo of appeals.

4. Driver, owner and insurer have not questioned the impugned awards on any ground, thus the same have attained the finality, so far as the same relate to them.

5. Thus, the only question to be determined in these appeals is-whether the amount awarded is adequate. The answer is in negative for the following reasons.

6. In claim petition No. 19 of 2007, subject matter of FAO No. 121 of 2012, the claimant had sought compensation to the tune of Rs.10,00,000/- as

per the break ups given in the claim petition, on account of injuries sustained by him in a motor vehicle accident on 11.9.2006 at 7.50 a.m. The claim petition was resisted by the respondents by filing separate replies.

7. The Tribunal, while determining issue No.4 made discussion and held that the claimant is entitled to compensation to the tune of Rs.70,729/- alongwith interest @ 7.5% per annum from the date of filing the claim petition till its realization.

8. The claimant sustained injuries and remained admitted in Zonal Hospital Mandi, from where he was referred to PGI Chandigarh and remained admitted there up to 25.9.2006. The claimant has given details of amount spent, was attended upon by the attendant at PGI and spent huge amount for his medical expenses, transportation and for food also.

9. The Tribunal has fallen in an error in awarding Rs.28,729/- for the medical expenses, The compensation was also to be granted for "future expenses". By a guess work, it can be safely held that the claimant is entitled to Rs.10,000/- for future

expenses, was not in a position to resume his duties for a period of one year and remained out of work for 1 ½ months, as discussed in para 26 of the impugned award. The Tribunal has fallen in an error in awarding Rs.12,000/- under the head “loss of actual income” by taking his income as Rs.8000/- per month. The disability certificate Ext. PW4/A and medical certificate do disclose the disability suffered and the nature of injuries sustained by the claimant respectively. The medical bills are on record as Mark-C1 to C24. Thus, it can be safely held that the claimant was not in a position to work for, at least, two months and Rs.15,000/- was to be awarded under the head “loss of income”. Accordingly, the claimant is held entitled to Rs.15,000/- under the head “loss of income”. Roughly, it can be safely held that the claimant is entitled to Rs.20,000/- under the head “Transportation and attendant charges” for two months.

10. The Tribunal has also fallen in an error in not awarding compensation under the heads “loss of amenities of life” and “pain and sufferings”. The claimant is also held entitled to Rs.50,000/- under the

head “loss of amenities of life” and Rs.50,000/- under the head “pain and sufferings”. Thus, in all the claimant is entitled to Rs.10,000/- +15,000/-+ Rs.15,000/-+ Rs.20,000/-+Rs.50,000/-+Rs.50,000/-= Rs.1,60,000/- with interest @7.5% per annum, as awarded by the Tribunal.

FAO No. 122 of 2012.

11. In this appeal, the claimant had sought compensation to the tune of Rs.20,00,000/- as per the breaks ups given in the claim petition, on account of injuries sustained by him in a motor vehicle accident on 11.9.2006 at 7.50 a.m. The claim petition was resisted by the respondents by filing separate replies.

12. The Tribunal, while determining issue No.4 made discussion and held that the claimant is entitled to compensation to the tune of Rs.1,44,783/- for “actual loss of income”. The claimant sustained injuries and remained admitted in Zonal Hospital Mandi, from where he was referred to PGI Chandigarh and remained admitted there for 4-5 months. The claimant has given details of the amount spent, was attended upon by the attendant at PGI and spent huge amount

for his medical expenses transportation, and for food also. The Tribunal has fallen in an error in awarding Rs.9,000/- for attendant charges. At least Rs.15,000/- was to be awarded under the head “cost of attendant charges” and is awarded accordingly. Only 5,000/- was awarded for transportation charges whereas Rs.20,000/- was to be awarded for transportation charges.

13. The claimant remained bed ridden for three months, was drawing salary to the tune of Rs.39,641/- per month. Thus, the claimant has suffered 30% disability as per disability certificate, has affected his income throughout his life.

14. The Tribunal has rightly awarded Rs.1,44,783/- under the head “loss of actual income.” The claimant has undergone pain and suffering and is deprived of amenities of life. Thus, Rs.50,000/- was to be awarded under the head “loss of amenities of life” and Rs.50,000/- under the head “pain and sufferings” and Rs.20,000/- under the head “future treatment”.

15. Thus, in all, the claimant is entitled to Rs.1,44,783/-+Rs.15,000/-+ Rs.20,000/-+ Rs.50,000/-+

Rs.50,000/-+Rs.20,000= Rs.2,99,783/- with interest @7.5% per annum, as awarded by the Tribunal.

16. The insurer is directed to deposit the enhanced amount alongwith interest @ 7.5% per annum, in both the appeals, within eight weeks from today in the Registry. The Registry, on deposit, is directed to release the amount in favour of the claimants, strictly in terms of the conditions contained in the impugned awards, through payees' cheque account, or by depositing the same in their bank accounts, after proper verification.

17. The amount already deposited by the insurer in the Registry, be released in favour of the claimants, forthwith, strictly in terms of the conditions contained in the impugned awards, through payees' cheque account, or by depositing the same in their bank accounts, after proper verification.

18. Viewed thus, the appeals are disposed of along with pending applications, compensation is enhanced and the impugned awards are modified as indicated hereinabove.

19. Send down the record forthwith, after placing a copy of this judgment.

October 28, 2016.
(cm Thakur)

(Mansoor Ahmad Mir)
Chief Justice.