



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Miscellaneous Appeal No.739/2007

Dekaran Singh son of Shri Narna Ram, aged 42 years, resident of Jesusar, Post Jesusar Via Dumara, Tehsil Navalgarh, District Jhunjhunu.

-----Appellant

Versus

1. Pyare Lal son of Shri Chander Ram Jat, resident of C-53, Amar Colony, Sagar Road, Bikaner. (Owner and Driver of Truck No.RJ07-G-6054)
2. The New India Assurance Co. Ltd., Nehru Place Tonk Road, Jaipur through Regional Manager. (Policy No.33002:31/03/01480 insurance period 03.11.03 to 02.11.04)- Insurance Company of Truck No.RJ-7-G-6054.

-----Respondent

For Appellant(s)	:	Mr. Dinesh Kala Mr. Sahil Duseja
For Respondent(s)	:	Mr. Rishipal Agarwal Mr. Mihir Jangid

JUSTICE ANOOP KUMAR DHAND

Order

06/02/2026

1. By way of filing the instant misc. appeal, a challenge has been led to the impugned award dated 31.10.2006 passed by the Motor Accident Claims Tribunal, Chomu, Jaipur in MAC Case No.110/2006 by which an award of Rs.74,605/- has been passed in favour of the claimants.
2. Being dissatisfied with the aforesaid award, the appellant-claimant (for short "the claimant") has approached this Court by way of filing the instant misc. appeal seeking enhancement of the same.



3. Brief facts of the case are that an accident occurred on 10.06.2004, when the claimant along-with others was travelling in a Scorpio Car bearing No. RJ 14 SU 1448 and while they were coming from Rewari to Khatushyam, on the way, one truck bearing No.RJ O7 G 6054 caused the accident by driving the vehicle in a rash and negligent manner, wherein the claimant sustained injuries and fracture on his skull and hip bone, hence, he approached the Motor Accident Claims Tribunal, Chomu, Jaipur (for short "the Tribunal") seeking suitable amount of compensation.

4. After hearing both sides, learned Tribunal awarded compensation for a tune of Rs.74,605/- in favour of the claimant under various heads.

5. Learned counsel for the claimant submits that on account of the aforesaid, multiple injuries and a fracture was sustained by the claimant, he remained under treatment and on leave for a period of six months, hence, he has been deprived of the amenities and suffered mental agony and under this head, very meagre and petty amount of Rs.13,000/- has been awarded. Learned counsel submits that looking to 13.1% permanent disability of the claimant, the aforesaid amount is quite meagre, which requires suitable enhancement.

6. *Per contra*, learned counsel appearing on behalf of the respondents-Insurance Company opposed the arguments raised by counsel for the claimant and submitted that the claimant is a Government servant and there is no break in his service, hence, under these circumstances, considering the overall facts and the documents available on the record, an appropriate compensation



has been awarded, which needs no interference by this Court and the instant appeal is liable to be rejected.

7. Heard and considered the submissions made at the Bar and perused the material available on the record.

8. This fact is not in dispute that the claimant has met with an accident on the fateful day and sustained multiple injuries and fractures on his skull and hip bone. This fact is also not in dispute that he remained under treatment at SMS Hospital, Jaipur for around one month and he remained on leave for a period of six months. This fact is also not in dispute that the claimant is a Government servant, but on account of six months leave, there is no break in his service. But looking to the injuries suffered by the claimant in the aforesaid accident and since he remained under treatment for a considerable time, which is more than six months and the amount awarded under the head of fiscal pain and mental agony, i.e., Rs.13,000/- is inadequate, which is liable to be enhanced.

9. Pain and suffering would be categorised as a non-pecuniary loss, as it is incapable of being arithmetically calculated. Therefore, when compensation is to be awarded under the head of pain and sufferings, special circumstances of the claimant have to be taken into account, including the age of the victim and unusual deprivation, that the victim has suffered.

10. Though, no specific criteria has been prescribed in this regard, but the Hon'ble Apex Court in catena of judgments has dealt with this issue in the case **R.D. Hattangadi Vs. Pest Control (India) (P) Ltd.** reported in **(1995)1 SCC 551**, wherein it has been held in Paras 10 & 17, which reads as under:-





"10. It cannot be disputed that because of the accident the appellant who was an active practising lawyer has become paraplegic on account of the injuries sustained by him. It is really difficult in this background to assess the exact amount of compensation for the pain and agony suffered by the appellant and for having become a lifelong handicapped. No amount of compensation can restore the physical frame of the appellant. That is why it has been said by courts that whenever any amount is determined as the compensation payable for any injury suffered during an accident, the object is to compensate such injury "so far as money can compensate" because it is impossible to equate the money with the human sufferings or personal deprivations. Money cannot renew a broken and shattered physical frame.

17.When compensation is to be awarded for pain and suffering and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for nonpecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration....."

11. Similarly in the case of **Divisional Controller, KSRTC Vs. Mahadeva Shetty and Another** reported in **(2003) 7 SCC 197** discussing the various factors into account, it was held in Para 18 as under:-

"18. A person not only suffers injuries on account of accident but also suffers in mind and body on



account of the accident throughout his life and a feeling is developed that he is no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities of life, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned.”

12. Similar view has been taken by the Hon’ble Apex Court in the case of **Sidram Vs. The Divisional Manager, United India Insurance Co. Ltd. And Anr.** reported in **(2023) 3 SCC 439**.

13. Considering overall facts and circumstances of the case and the law as propounded by the Hon’ble Apex Court in the above noted judgments and looking to the fact that age of the injured being 42 years at the time of accident and the injured has sustained fracture of skull and hip bone and has sustained 13.1% of permanent disability and also considering the fact that he remained under treatment at the Hospital and remained on leaves for a period of more than six months, the amount of compensation is inadequate.

14. In the considered opinion of this Court, the claimant is entitled to get Rs.50,000/- under this head.

15. Accordingly, the instant misc. Appeal stands partly allowed with the aforesaid observations:-

Loss of income owing to leaves of 175 days.	Rs.31,725/-
Hospital, Transport & Diet	Rs.10,000/-
Medical Expenses	Rs.19,880/-
Pain & Suffering	Rs.50,000/-
Total compensation awardable	Rs.1,11,605/-
Less compensation awarded by the Tribunal	Rs.74,605/-
Enhanced amount of compensation	Rs.37,000/-



16. The respondent-Insurance Company is entitled to pay the enhanced amount of compensation, i.e., Rs.37,000/- to the claimant within a period of two months from today along-with interest @ 6% per annum from the date of filing the instant claim petition.

(ANOOP KUMAR DHAND),J

Karan/10

