

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

FAO No.1472 of 1994

Date of decision: 5th February, 2015

Kailash

... Appellant

Versus

Daya Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: None for the appellant.

Mr. D.R. Singla, Dy. Advocate General, Haryana
for respondent No.3.

None for the remaining respondents.

FATEH DEEP SINGH, J.

The appellant who was claimant before the learned Tribunal has challenged the Award dated 16.02.1994 passed by the learned Motor Accident Claims Tribunal, Jind which has awarded a sum of ₹30,000 with interest for the injuries sustained by the claimant in a motor vehicular accident that took place on 04.02.1993.

After hearing Mr. D.R. Singla, Dy. Advocate General, Haryana for respondent No.3 as no one has put in appearance on behalf of the claimant/appellant.

Due to destruction of records in the fire that engulfed the record room not much is available before this Court to appreciate the things. However, the factum of accident need not be gone into as the same which was decided in favour of the claimant has attained finality by way of issue No.1 which has not been assailed of. It is proved on the record by way of MLR Ex.P1 as to the injuries of the claimant, accident report Ex.P2 corroborates it and disability certificate Ex.P4 shows that there was fracture of right leg leading to its shortening by 4 cm. It is the established case of the claimant as PW1 that he was working as a driver of a Canter vehicle and shortening of leg would certainly come in the way of carrying on his duties, besides would be source of embarrassment on account of loss of beauty and his earnings as also the physical activity would also undergo a sea change. The learned Tribunal has considered this disability to the extent of 25% of permanent nature.

Though not much has been proved by way of salary of the claimant however, keeping in view the nature of his avocation and then prevalent daily wages it is safe to conclude that in all likelihood he must be earning ₹3,000 per month.

The learned Tribunal, as is apparent from the impugned Award and as has been submitted on behalf of the appellant side, has on its own awarded compensation to the tune of ₹50,000 without adverting on to the various heads under which the claimant was entitled without appreciating the facts and evidence. How and on what basis and evidence it has drawn its conclusions and awarded this

compensation in lump sum, which certainly is a wrong appreciation. Having regard to the fact that due to fracture of leg, the claimant must have been laid off for a minimum period of six months from his job and must have been denied salary for this period, besides must have spent money on his treatment and the bills have been brought on the record as Ex.P6 to Ex.P66 and keeping in view the aftereffects of this disability in the light of ratio laid down in '**R.D.Hattangadi v. Pest Control (India) Private Limited**' 1995 (2) PLR 298 SC, the claimant is certainly entitled to compensation under the following heads:

(A) Pecuniary Compensation

(i)	Compensation assessed on account of expenses incurred on treatment	₹25,000/-
(ii)	Compensation assessed on account of services of attendant, special diet and conveyance	₹10,000/-
(iii)	Compensation assessed on account of loss of earnings during hospitalization	₹18,000/-
(iv)	Compensation assessed on account of loss of earnings due to permanent disablement	₹95,000/-

(B) Non-Pecuniary Compensation

(i)	Compensation assessed on account of physical pain, mental agony and sense of wrong	₹15,000/-
(ii)	Compensation assessed on account of loss of beauty/enjoyment of life	₹50,000/-
(iii)	Compensation assessed on account of loss of pleasures of life and longevity	₹10,000/-

Total	₹2,23,000/-
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In view of these discussions, the impugned Award is certainly on the lower side and cannot be termed as just and reasonable and needs to be modified. Thus, total compensation

comes to ₹2,23,000 (rupees two lacs twenty three thousand only). Besides, the claimant is also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed

No other point has been argued.

With these observations, the impugned Award is modified by way of acceptance of the present appeal in those terms.

(FATEH DEEP SINGH)
JUDGE

February 5, 2015

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