

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

FAO No. 1128 of 1991

Date of Decision:- 28.04.2015

Sunish Katyal

.....Appellant

Versus

New India Assurance Company and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present: Mr. O.P. Goyal, Senior Advocate
with Mr. Randeep Singh, Advocate
for the appellant.

Mr. Pardeep Kumar, Advocate
for respondent-Insurance Company.

SHEKHER DHAWAN, J.

Claimant-appellant challenged the award dated 06.06.1991, passed by Motor Accident Claims Tribunal, Chandigarh (hereinafter to be referred as 'The Tribunal') whereby 'The Tribunal' awarded compensation of ₹2,00,000/- on account of injuries having been sustained in the motor vehicle accident which took place on 18.10.1986.

2. Relevant facts for the purpose of decision of the appeal that claimant-Sunish Katyal was hit by truck bearing registration No.DIL-

1635 and was crushed under the wheels of said truck. He had sustained several injuries and his left leg had to be amputated 5.6 inches below the knee and he is still under treatment. As per claimant, the accident had taken place because of rash and negligent driving of respondent No.1. Respondents contested the claim on all accounts. 'The Tribunal' after appreciating the evidence, announced the award dated 06.06.1991. Aggrieved by the Award, the claimant is in appeal before this Court .

3. Mr. O.P. Goyal, Senior Advocate, learned counsel for the appellant took the plea that 'The Tribunal' has not awarded 'just compensation' though the claimant had suffered injuries, by way of amputation of left leg. He had to remain as indoor patient from 18.10.1986 to 29.11.1986. The claimant was industrialist and was partner to the extent of 50% in M/s Sai Polymer Industry in Industrial Area, Chandigarh. His average annual income was ₹60,000/-, at the time of accident. The accident had resulted into, loss on account of permanent disability because of amputation of the left leg by 5½ inches below the left knee, loss of earning capacity, loss of amenities of life and loss of prospects of marriage, as he was just 22½ years at the time of accident. He was a graduate from Panjab University. Learned counsel for the appellant also placed reliance upon judgment from Hon'ble Supreme Court in case **Kumaresh Vs. Divisional Manager, National Insurance Co. Ltd. and another**, 2011 ACJ 1975, wherein, the Hon'ble Supreme Court considered identical matter and pronounced the award of ₹9,97,000/-. So, the amount of award be enhanced suitably in this case.

4. While arguing on these points, Mr. Pardeep Kumar, Advocate, learned counsel for the respondent took the plea that ‘The Tribunal’ has already awarded just compensation though the fact that no doctor was examined to prove the disability to the claimant. There is no income proof of the claimant. So, the appeal is without any merit and this may be dismissed.

5. Having considered the rival contentions raised by both the counsel for the parties, this Court is of the considered view that the claimant had sustained injuries and his left leg was amputated 5½ inches below of left leg. The record of PGI Chandigarh was produced by PW3 Amarnjit Singh, Record supervisor. ‘The Tribunal’ has already awarded the compensation on account of medical expenses, having been incurred by the claimant and his family members and compensation has also been awarded on account of pain and suffering, loss of income etc. However, ‘The Tribunal’ has not awarded any amount or lesser amount of compensation under the following heads and the amount of compensation is liable to be enhanced as under: -

(i)	Loss of income from 18.10.1986 to 29.10.1986	₹7,500/-
(ii)	Attendant charges, special diet and transportation	₹30,000/-
(iii)	Pain and suffering	₹25,000/-
(iv)	Loss on account of permanent disability	₹50,000/-
(v)	Loss of earnings, loss of amenities of life and loss of prospects of marriage	₹1,50,000/-

6. The enhanced amount of compensation of ₹2,62,500/- shall be payable within a period of one month, failing which, the appellant shall be entitled to recover interest @ 7.5% per annum from

today. However, the remaining conditions regarding payment of interest and disbursal amount of awarded compensation shall remain unaltered.

7. Accordingly, the present appeal is accepted partly.

April 28, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE