

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

FAO No.577 of 1995

Date of decision: 20th January, 2015

Rajesh Kumar

... Appellant

Versus

Anand Parkash and another

... 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: Mr. Ashok Jindal, Advocate for
Mr. Sanjay Mittal, Advocate
for the appellant.

Mr. Rahul Deswal, Advocate
for respondent No.1.

None for respondent No.2.

FATEH DEEP SINGH, J.

Injured Rajesh Kumar has come up in this appeal seeking enhancement of compensation so awarded to him amounting to ₹50,000 along with interest by learned Motor Accident Claims Tribunal, Narnaul through impugned Award dated 29.10.1994 for the injuries sustained by him in a motor vehicular accident that took place on 31.05.1991.

Upon hearing Mr. Ashok Jindal, Advocate appearing on behalf of Mr. Sanjay Mittal, Advocate for the claimant/appellant and Mr. Rahul Deswal, Advocate for respondent No.1/owner of the offending vehicle.

Since the original record stood destroyed in fire that engulfed the record room, not much is available by way of evidence to appreciate the things. It is duly proved on the record that the claimant/appellant Rajesh Kumar at the time of accident was aged around 22 years, a bachelor, working as a Tailor. The findings as to the quantum of compensation revolves around issue No.2 and the learned Tribunal has held that Dr.Dinesh Podar PW3 has testified that there was injury on the right elbow joint of the injured whereby the bone was exposed and there was diffused swelling around the shoulder joint and hand, with multiple abrasions and was examined on 02.03.1993 and which was found to be dislocation of the right elbow with flail right upper limb, and though has opined that there was disability of 80% as to his right hand. The learned Tribunal after appreciation of the evidence has held that since the injured has suffered injuries while travelling in a bus and his right arm is shown to be dangling out of the bus and that it was when another bus came so close to the bus in which the injured was travelling has led to this accident, sufficiently reflects that it was fault of Rajesh Kumar injured who did not take necessary precautions while travelling in the bus and the learned Tribunal has awarded a lump sum compensation of ₹50,000 to the injured/claimant.

Mr. Ashok Jindal representing the appellant could not show how there has been wrong appreciation of the evidence and the law. Rather learned Tribunal has taken a very compassionate and liberal approach into the matter in awarding such compensation, when otherwise the appellant was not entitled to this amount. Learned counsel could not convince this Court by any means over the illegality or invalidity of the Award which could tilt the scales in his favour.

Thus, finding no merit in the appeal, the same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 20, 2015
rps