

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

**FAO No.218 of 2000
Date of Decision: January 29, 2015**

Suresh Kumar

...Appellant

Versus

Ranbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Surinder Dhull, Advocate
for the appellant.

Respondents No.1 and 2-ex-parte.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

Mr. D.R. Singla, DAG, Haryana
for respondents No.4 and 5.

FATEH DEEP SINGH, J.

The claimant-appellant Suresh Kumar has sought to challenge an award of the learned Motor Accident Claims Tribunal, Rohtak dated 11.9.1999 terming the compensation so awarded to the tune of ₹5000/- to be highly insufficient and meagre.

The factum of the accident having taken place on 3.7.1996 when claimant-Suresh Kumar was travelling in bus No.HR-08-8093 which met with an accident with truck bearing registration No. HR-47-1619 resulting in injuries to him and the

learned Tribunal while adjudicating on issue No.1 has held the truck driver to be responsible for this accident and which findings have not been challenged and, thus, have been laid to rest.

As per the proven case of the appellant he is a bachelor, aged around 25 years, working as a tailor. The medical record highlights that he has suffered a fracture of right leg near the ankle joint. The disability certificate depicts 5% disability which as per the arguments of the learned counsel for the respondent is not a whole body disability and is purely in respect of a particular limb. However, it needs to be taken note of the fact that by such a fracture it normally takes six months to heal and the claimant is a bachelor which would be a retrogrative step in life and it would have certainly affected his job and earnings. Though, the claimant was certainly earning more than what has been taken note of by the Tribunal, however, in view of the fact that there is no documentary evidence, it would be reasonable to hold that the claimant in all likelihood must be earning ₹2500/- per month which are normal earnings in those times in such an avocation and having regard to the evidence, especially, that of PW5 Dr. Ghan Shyam Mittal that two surgeries had to be undertaken and the medical expenses proved through bills Ex.P2 to Ex.P4 and taking support from **R.D. Hattangadi vs. Pest Control (India) Private Limited 1995 (2) PLR 298 SC** the claimant is certainly entitled to the following compensation which the learned Tribunal has failed to take note of:-

Pecuniary compensation:-

- (i) Compensation assessed on account of ₹15,000/-
loss of earnings.

- | | |
|--|-----------|
| (ii) Compensation assessed for expenses incurred on his treatment and medicines | ₹20,000/- |
| (iii) Compensation on account of special diet, services of attendant and conveyance. | ₹10,000/- |

Non Pecuniary compensation:-

- | | |
|---|-----------|
| (i) Compensation assessed on account of physical pain and mental agony. | ₹10,000/- |
| (ii) Compensation assessed on account of disability and loss of beauty. | ₹25,000/- |

Total ₹80,000/-

Thus, the claimant is entitled to a sum of ₹80,000/- (eighty thousand) as compensation and the findings of the Tribunal qua issue No.2 is modified accordingly.

The claimant shall be entitled to interest @ 7.5% per annum on the enhanced amount of compensation from the date of filing of appeal till realisation. However, rest of the stipulations as laid down in the impugned award need not be disturbed. Interim compensation paid, if any, shall be adjusted.

The instant appeal stands allowed accordingly in those terms.

(FATEH DEEP SINGH)
JUDGE

January 29, 2015
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