

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

**FAO NO. 556 OF 1998 (O&M)
DECIDED ON : 02.09.2015**

Gian Chand @ Gian Singh

...Appellant

versus

Balkar Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Sudhir Rana, Advocate,
for the appellant.

Mr. Gaurav Bansal, AAG, Haryana.

K. C. PURI, J. (ORAL)

This is an appeal directed by the injured/claimant seeking compensation on account of injuries suffered by him in a motor vehicular accident which took place on 22.10.1996.

The claim petition was adjudicated along with other claim petitions vide Award dated 04.10.1997 passed by Shri R. P. Bhasin, Motor Accident Claims Tribunal, Kurukshetra. The learned Tribunal, after adjudication, allowed a sum of ₹57,500/- as compensation. Out of the said amount, a sum of ₹7500/- was allowed in respect of medical expenses whereas ₹50,000/- was allowed under the other heads.

The claimant has directed this appeal for enhancement of compensation.

Learned counsel for the appellant has submitted that as per the disability certificate Exhibit A-14, there was disability to the extent of 47%, the detail of which is given as under :-

fracture neck non-union without recontraction (50% to 75)-37% shortening right lower limb 1 inch alley with muscle weakness and mild limitation of motion=10% i.e total 47%.

It is submitted that as per certificate Exhibit A-14, the claimant suffered total 47% disability in the accident which took place on 22.10.1996. The claimant remained admitted in LNJP Hospital, Kurukshetra, for 2-½ /3 months. It is further submitted that the Hon'ble Apex Court in authority "**Govind Yadav vs The New India Insurance Company Limited**" 2011 (4) RCR (Civil) 817, held that following heads should be taken into consideration while allowing the compensation :-

- 1) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food and miscellaneous expenditure.
- 2) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

- a) Loss of earning during the period of treatment;
- b) Loss of future earnings on account of permanent disability.
- 3) Future medical expenses.

Non-pecuniary damages (General Damages)

- 4) Damage for pain, suffering and trauma as a consequence of the injuries.
- 5) Loss of amenities (and/or loss of prospects of marriage).
- 6) Loss of expectation of life (shortening of normal longevity).

On the other hand, learned State counsel has supported the Award passed by the Tribunal and has submitted that no amount was charged from the claimant in the hospital. The medical bills have already been reimbursed. The Tribunal has rightly assessed the amount of compensation.

I have considered the submissions made by both the sides and have gone through the records of case.

The appellant has suffered 47% disability out of which 37% disability was in respect of fracture of neck non-union without recontraction and there was shortening of right lower limb by 1 inch alley with muscle weakness and mild limitation of motion upto 10%. In these circumstances, the amount of

₹50,000/- awarded in respect of all the heads mentioned above is on lower side. So, the ends of justice would be met in case ₹1,00,000/- more is allowed to the claimant. In these circumstances, ₹1,00,000/- more stands allowed to the claimant in addition to the amount already awarded by the Tribunal, under all the heads as mentioned above. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till its realisation. The liability to pay the amount shall remain the same as ordered by the Tribunal.

Disposed of.

SEPTEMBER 02, 2015

shalini

(K. C. PURI)
JUDGE