

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

FAO No.1368 of 2001 (O&M)

Date of Decision: 27.07.2015

Vivek Goyal

.....Appellant

Versus

Shyambir and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present:- Mr. Naren Partap Singh, Advocate,
for appellant.

Mr. S.S.Behl, Advocate,
for respondent No.1.

Mr. A.K.Gahlawat, Advocate,
for respondent No.2.

SHEKHER DHAWAN, J (ORAL)

Appellant has filed the present appeal against award dated 11.09.2000 by Motor Accident Claims Tribunal, Hisar (hereinafter referred as 'The Tribunal') whereby 'The Tribunal' awarded compensation to the tune of ₹1,85,000/- on account of injuries having been sustained by him in motor vehicle accident.

2. Relevant facts for the purpose of decision of present appeal are that appellant on the intervening night of 2nd and 3rd June, 1996 at 1.15 AM was going on his motorcycle and bus of Rajasthan Road Transport Corporation bearing registration No.RJ-13P-1092 came from Hisar side at a fast speed, in rash and negligent manner and struck against appellant.

Resultantly appellant sustained multiple injuries and was taken to hospital for treatment. Claimant claimed compensation.

3. Respondents contested the claim petition. 'The Tribunal' after considering the material and evidence available on file awarded compensation of ₹1,85,000/-.

4. Learned counsel for the appellant taken plea that appellant was of the age of 26 years and was unmarried. He was getting salary of ₹5,500/- per month as he was working as Supervisor. He has suffered 30% disability and has lost vision from one eye because of injuries having been sustained in this accident. The accident resulted into loss of income, pain and suffering, loss on account of enhanced future earnings, enjoyment of married life. He had to engage attendant and had to spend a huge amount on transportation, apart from actual expenses of ₹1,68,411/-. So, the amount of compensation be enhanced suitably.

5. Learned counsel for respondents took the plea that 'The Tribunal' has already awarded 'Just Compensation' so the appeal be dismissed.

6. Having considered the rival contentions raised by learned counsel for both the parties this Court is of the considered view that most of the facts are not disputed that appellant had sustained multiple injuries and as a result of that he had suffered 30% disability and loss of vision from one eye. He was just of the age of 26 years at that time and was working as Superwiser and earning ₹5,500/- per month. These injuries have adversely effected his earning capacity and also resulted into pain and suffering and loss of enjoyment of life including prospects for married life as well. 'The Tribunal' has awarded a sum of ₹1,00,000/- only against total medical expenses of ₹1,68,411/- which was available against bills Exhibits P-1 to P-

132 were available on file. It is also matter of common knowledge that a person being victim of such a motor vehicle accident is not in a position to procure and protect all the medical bills or incidental expenses having been incurred in respect of his treatment. Injured have to spend a substantial amount on account of transportation charges, special diet etc. Disability was 30% and that was qua eye at prime of the age and in case where a person is working as Supervisor, same adversely effect his earning capacity and loss of earning on much higher side. However, 'The Tribunal' has not considered all these aspects while awarding the compensation. It is also settled preposition of law that there cannot be any hard and fast rule for determining the amount of compensation in such like cases and somewhat guess work has to be done.

7. In view of the above, the amount of compensation in this case is enhanced from ₹1,85,000/- to ₹2,50,000/- in lumpsum. The enhanced amount of ₹65,000/- shall be payable from the date of claim petition. Appellants shall be entitled to interest @ 7.5% per annum on the enhanced amount from the date of filing of the claim petition till its realization. However, remaining conditions regarding payment and disbursal of amount shall remain unaltered.

8. Appeal partly accepted.

(SHEKHER DHAWAN)
JUDGE

July 27, 2015

msd