

Sr. No.376

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

**FAO No.565 of 2001
Date of Decision.26.08.2015**

Tayub Hussain

.....Appellant

Versus

Punjab Land Development Bank (P.L.D.Bank) Punhana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

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. Sandeep Jasuja, Advocate,
for the appellant.

K. KANNAN J. (ORAL)

The appeal pertains to a claim for enhancement, an accident of a person aged 30 that took place on 21.12.1990, where he had a fracture of his ankle. It was stated to have resulted to shortening of limb by $\frac{1}{4}$ inches. The doctors stated disability caused as 45% and the Court assessed Rs.5000/- towards special diet and transportation, Rs. 5000/- for pain and suffering, disability and loss of earning capacity and provided for compensation Rs.1, 10,000/- . I asked during the arguments from the counsel apart the medical expenses that were incurred and he says that records filed in the

court do not show any amount having been incurred. The only reliance is on the assessment of so called disability of 45%. Counsel also argues respondents have been served but they have not contested the claim and therefore, the arguments must be taken as uncontested and enhancement of compensation must be provided in the manner which the petitioner seeks for.

We have come by reasonable certain terms for assessing the disability by virtue of the guidelines issued by the Department of Health and the scale of disability which has been assessed through a team of experts. The functional ability from toe to ankle is 30%, from ankle to knees-another 30% and from knee to the hip joint make for the remaining 30%. A fracture at the ankle which creates a serious restriction of ability cannot be anything more than 30% even an amputation of metatarsal bones and phallanges cannot mean more than 30%. A doctor who assesses 45% disability was making an unscientific assessment which cannot be relied upon. I provide for disability arising as not more than 15% and considering that the accident was in the year 1990 I will provide for loss of amenities at Rs.15000/- and take the component pain and suffering from the fracture as another Rs.15000/-. I will also take the loss of earning capacity arising in such a situation to constitute about 5 percent and considering that he was 30 years of age being an agriculturist, I will take his average income for a year at Rs. 12000/- and even if apply a multiplier of 17, the loss of earning capacity will be only $12000 \times 5\% \times 17 = 10,200/-$. The overall compensation could never have been more than that assessed by the Tribunal.

I decline to make any interference for enhancement of compensation as demanded by the appellant .

Appeal dismissed.

(K. KANNAN)
JUDGE

August 26, 2015

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