

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3332 of 2004 (O&M)
Date of Decision: January 12, 2015

Sajjan Singh

..Appellant(s)

Versus

Major Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? No

Present: Mr. Atul Jain, Advocate
for the appellant.

Mr. Man Mohan, Advocate for
Mr. Suman Jain, Advocate
for respondent No.2.

ANITA CHAUDHRY, J.

1. This is the claimant's appeal seeking enhancement in the compensation awarded for the injuries suffered by him in the accident which occurred on 13.01.2001. The Motor Accident Claims Tribunal, Kapurthala (here-in-after referred to as the Tribunal) awarded a sum of Rs.89,030/- with 9% interest.

2. The record of this case had been burnt in fire incident and only photocopy of the award is available on the case file but counsel for both the parties had stated that they had no objection if the matter is decided on the basis of record available.

3. The submission made on behalf of the appellant is that the appellant had suffered fracture of both the legs and there was disability of 50% and his chances of promotion had been affected

and the Tribunal had only awarded a sum of Rs.20,000/- on all the heads besides adding Rs.69,030/- which were the actual expenses made on the treatment and purchase of medicine. It was urged that no amount had been awarded for loss of income for the period of leave. It was contended that no separate amount had been awarded for pain and suffering or special diet.

4. The submission on the other hand was that the Tribunal had noted that the disability was temporary in nature and with time, it would have been cured and no material had been produced to show that the disability remained or that on account of the disability, the appellant had not been promoted.

5. The accident had taken place in January, 2001. The Tribunal had noted all the details and had allowed the actual expenses made on the treatment. Beyond that, a sum of Rs.20,000/- alone was awarded for all other heads, though, the Tribunal had noted that the appellant would have undergone physical pain and mental agony but failed to award any separate amount for pain and suffering.

6. As regards the disability, since there is no material that it was permanent in nature, no amount on that head can be added. It was to be shown by the appellant that the disability was permanent in nature. However, I find that since there was a fracture, the appellant would have been immobile for three months at least and there would have been loss of salary or loss of leave and the appellant should be compensated on that account. A separate amount should also be awarded for pain and suffering and special diet. Therefore, I make the following additions:-

Loss of salary of 3 months	=	Rs.16,500/-
(Rs.5500/- x 3)		
Pain and Suffering	=	Rs.15,000/-
Special Diet	=	Rs.5,000/-

Total	=	Rs.36,500/-

7. The appeal is partly allowed and it is held that the appellant is entitled to a sum of Rs.36,500/-, which shall be paid within two months, failing which the appellant would be entitled to interest as awarded by the Tribunal from the date of filing of the appeal, till realization.

(ANITA CHAUDHRY)
JUDGE

January 12, 2015
sunil