

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 2504 of 2005
Date of Decision: 19.02.2015

Rohtash
... Appellant/claimant
vs.

Jagjit Singh & Anr.
... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present:- Mr. S.K. Yadav, Advocate
for the appellant/claimant.

Mr. R.K. Bashamboo, Advocate
for respondent No.2.

ANITA CHAUDHRY, J.

This is claimant's appeal seeking modification of the award dated 07.04.2005 passed by the Motor Accident Claims Tribunal, Narnaul (for brevity, the 'MACT').

Rohtash suffered injuries in the accident on 04.04.2004 resulting in a disability to the extent of 20%. The Tribunal took the income of Rs.2500/- per month and loss was calculated at Rs.300/- per month. Applying the multiplier of 15, the compensation towards permanent disability was assessed at Rs.54000/-. The following compensation was allowed:-

1.Reimbursement of medical expenses	Rs.15,000/-
2. Loss of income	Rs.12,500/-
3. Pain and suffering	Rs.10,000/-
4. Special diet	Rs.05,000/-
5. Transportation expenses	Rs.05,000/-
6. Permanent disability	Rs.54,000/-
Total	Rs.1,01,500/-

The submission on behalf of the appellant is that the amount assessed for the disability was on the lower side and the appellant used to shape bricks at the brick kiln and with 20% disability, on the leg, his functional disability was higher. It was urged that the income has been taken on a lower side and the appellant was also entitled to attendant charges. It was urged that the amount allowed for pain and suffering was on the lower side.

The submission, on the other hand, was that the claimant was a labourer and minimum wages were taken into consideration and the disability was assessed keeping the functional disability into view and the amount was adequate.

The counsel for the appellant conceded that there was no documentary evidence to show that the claimant was earning a higher amount than Rs.2500/-. There is no evidence to suggest that the claimant was unable to sit or squat. The disability assessed by the medical officer related to one limb and not the entire body. There were two fractures on the leg, the functional disability can be taken as 15%, the loss would come to Rs.375/- per month. The annual loss would come to Rs. 4500/-. Applying the multiplier of 15, the compensation payable would be Rs.67500/-. The Tribunal had allowed Rs.54000/-. The appellant is allowed Rs.13500/- for the disability. I would add Rs.7500/- for the attendant and Rs.10,000/- more for pain and suffering, raising the total payable to Rs.31,000/-, which shall be paid by the insurance company within two months,

failing which the appellant would be entitled to interest @ 6% from the date of filing of the appeal. The appeal is partly allowed.

19.02.2015

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**(ANITA CHAUDHRY)
JUDGE**