

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO-3404-2005 (O&M)  
Date of Decision: March 26, 2015

Vishan Dass

...Appellant

Versus

Gurcharan Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr. Sandeep Kotla, Advocate,  
for the appellant.

Mr. Manmohan, Advocate,  
for respondent No. 2.

Mrs. Shamsheer Kaur, Advocate,  
for respondent No. 2A.

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?

**NARESH KUMAR SANGHI, J (Oral)**

Challenge in this appeal is to the award dated 21.2.2005, passed by the learned Motor Accidents Claims Tribunal, Fatehabad, whereby Rs. 90,000/- (Rupees ninety thousand only) along with interest at the rate of 9% p.a. were awarded to the claimant on account of fractures received on left

Ulna, left Tibia and left Fibula, rendering the appellant disable to the extent of 24%.

Learned counsel contends that the appellant/claimant a 55 years old male, while riding the motor-cycle, met with an accident on account of rash and negligent driving of Maruti Zen by respondent No. 1. At the time of accident, the appellant was not only running a *Kiryana* shop, but was also looking after his six acres of agricultural land. During treatment he was operated upon and remained confined to bed for several months. His shop remained closed. The appellant had to employ an attendant to look after him. Learned Tribunal had awarded only Rs. 15,000/- (Rupees fifteen thousand only) on account of pain and suffering and loss of amenities of life. Learned counsel further pointed out that learned Tribunal had also inadequately awarded Rs. 25,000/- (Rupees twenty-five thousand only) under the head of permanent disability. He also pointed out that for employing the attendant and for loss of income, nothing has been awarded by the learned Tribunal.

On the other hand, learned counsel for the respondents submitted that after scanning the whole material available on record, learned Tribunal has already awarded adequate compensation to the appellant and, as such, there is no

scope for further enhancement. Learned counsel for the insurance company further pointed out that there was no evidence on record to suggest that any attendant was ever engaged by the appellant.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Since the accident is not in dispute, therefore, there is no necessity for this Court to discuss the accident part and negligence etc. on the part of respondent Nos. 1 and 2. Since the driver, owner and insurance company of the offending vehicle have not challenged the award, therefore, this Court is also of the view that without discussing the other issues the exercise with regard to adequate amount to be awarded to the appellant/claimant under various heads, can be done.

Concededly, at the time of accident, the appellant, who was aged about 55 years and running a *Kiryana* shop in addition to maintenance of his six acres of agricultural land, had suffered multiple fractures on his person. The doctors found that the appellant had suffered 24% permanent disability. Therefore, the appellant can be awarded Rs. 48,000/- (Rupees forty-eight thousand only) for disability. The Tribunal had rightly awarded

Rs. 50,000/- (Rupees fifty thousand only) on account of medical expenses. For pain and suffering and loss of other amenities of life, Rs. 15,000/- (Rupees fifteen thousand only) as awarded by the learned Tribunal appears to be on lower side. Therefore, the said amount is enhanced to Rs. 50,000/- (Rupees fifty thousand only). The appellant was running a *Kiryana* shop and earning Rs. 5,000/- (Rupees five thousand only) per month, which does not appear to be exaggerated and he must have remained under treatment for several months without attending his business. Therefore, for loss of income, the appellant can be awarded Rs. 30,000/- (Rupees thirty-thousand only), i.e.  $5000 \times 6 = 30000$ . The appellant must have remained confined to bed for long time since there were fractures in left Ulna, left Tibia and left Fibula. Therefore, he can also be awarded Rs. 20,000/- (Rupees twenty-thousand only) for retaining an attendant. The total amount in view of the revised calculation would be as under:-

| Sr. No. | Description                                           | Amount (in Rs.)   |
|---------|-------------------------------------------------------|-------------------|
| 1.      | 24% permanent disability                              | 48,000/-          |
| 2.      | Medical expenses                                      | 50,000/-          |
| 3.      | Pain and suffering & loss of other amenities of life. | 50,000/-          |
| 4.      | Loss of income                                        | 30,000/-          |
| 5.      | Retaining an attendant.                               | 20,000/-          |
|         | <b>Total</b>                                          | <b>1,98,000/-</b> |

Learned counsel for the insurance company has pointed out that Rs. 90,000/- (Rupees ninety-thousand only) were paid to the appellant after passing of the award. The appellant would be entitled to interest at the rate of 9% p.a. on the enhanced amount from the date of filing of the petition before the learned Tribunal till its realization.

As a sequel to the above, the appeal is partly allowed.

**(NARESH KUMAR SANGHI)**  
**JUDGE**

**March 26, 2015**  
Pkapoor