

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

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FAO No.140 of 2007 (O&M)

DATE OF DECISION: January 19, 2015

Ram Chand

....Appellant.

VERSUS

Vijay Pal and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

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

Mr. R.N. Singal, Advocate
for respondent no.3-Oriental Insurance Co. Ltd.

MAHAVIR S. CHAUHAN, J.(Oral)

Modification of award dated 02.03.2006 passed by learned Motor Accident Claims Tribunal, Faridabad (for short 'Tribunal') is sought by Ram Chand, the appellant, by alleging that the learned Tribunal has not awarded anything for loss of earnings for two days during which period the appellant remained admitted in hospital as also on the days he had to visit the hospital. It is also argued that grant of compensation of Rs.10,000/- on account of 10% disability of the right hand of the appellant is on the lower side. Grant of compensation of Rs.5,000/- for pain and suffering is also stated to be inadequate.

The contentions are resisted by learned counsel appearing for the insurer on the plea that compensation awarded by the learned Tribunal is

very just and reasonable and the award does not call for interference.

Though factum and manner of occurrence are not disputed, yet it may be stated that appellant's case before the learned Tribunal was that on 27.05.2002 he was proceeding on his cycle and when he reached Chowk of NH2 and 3 in NIT, Faridabad, a truck/dumper (the offending vehicle) bearing registration no.HR-38G-5978 came from behind, being driven in a rash and negligent manner by respondent Vijay Pal and hit the bicycle of the appellant. Resultantly, hand of the appellant was crushed under the wheel of the offending vehicle. He was taken to B.K. Hospital, Faridabad, where he was medico legally examined and he spent an amount of Rs.50,000/- on his treatment.

Claim application was resisted by respondents.

Issues were framed.

Both the parties adduced evidence and were heard by the learned Tribunal. Findings with regard to factum and manner of occurrence as also entitlement of the appellant to receive compensation were returned in favour of the appellant and a compensation amounting to Rs.37,500/- was awarded to him.

A perusal of the impugned award would show that the appellant was admitted in the hospital on 27.05.2002 and was discharged on 29.05.2002. He had to visit the doctor repeatedly for follow up such as dressing etc. For fracture of the bones of the right hand, plaster was applied on his arm. Resultantly, he was deprived of use of his right arm for the period this hand remained under plaster. It must have affected his business activities as well. Though it is not possible to assess loss of income of the appellant as no evidence regarding his income is coming forth, yet by

implying a little guess-work it can be easily stated that the appellant must have suffered loss of business on the days he remained admitted in the hospital and also on the days he visited the hospital for follow up treatment. It is also anybody's guess that the appellant must have experienced loss of pain and suffering on account of injury/disability so suffered by him. In the totality of circumstances, a compensation amounting to Rs.75,000/- is found to be just and reasonable. Accordingly, the award of the learned Tribunal is modified and the appellant is held entitled to compensation amounting to Rs.75,000/-. It shall be inclusive of what has been granted by the learned Tribunal while other terms of the award shall remain unchanged.

No costs.

The appeal is disposed of in the aforesaid terms.

(MAHAVIR S. CHAUHAN)
JUDGE

January 19, 2015.
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