

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

FAO No.3795 of 2007

Date of decision: 9th January, 2015

Ashok Kumar

... Appellant

Versus

Dharam Pal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Parveen Chauhan, Advocate
for the appellant.

Service of respondents No.1 and 2 – dispensed with.

Ms. Madhu Sharma, Advocate
for respondent No.3.

FATEH DEEP SINGH, J.

Through consolidated Award dated 15.05.2007 learned Motor Accident Claims Tribunal, Karnal disposed off two claim petitions. The present appeal is by claimant Ashok Kumar who received multiple injuries by way of fracture in the accident involving Indica car bearing registration No.PB-11AA-6395 that took place on 27.05.2005. The appellant/claimant has sought enhancement of compensation so awarded.

Heard Mr. Parveen Chauhan, Advocate for the claimant/appellant and Ms. Madhu Sharma, Advocate representing the insurer/respondent No.3.

The factum of manner of the accident and the injuries sustained by Ashok Kumar are well elaborated in the evidence and which has not been controverted by any means. It is there on the record that Ashok Kumar remained admitted in Haryana Nursing Home, Karnal from 27.05.2005 to 13.06.2005. The bills proved on record amounting to ₹25,000 and ₹27,141 totals to ₹52,141 and which fact of his treatment is corroborated by the admission cards Ex.P5 and Ex.P6 and though the claimant as PW1 by way of his affidavit Ex.P1 claims that he has spent ₹4.00 lacs but has failed to substantiate the same by any means except the testimony of PW4 Dr.K.L. Sachdeva who has proved the treatment record by way of admission cards Ex.P5, Ex.P6 and bills Ex.P7 to Ex.P10 and though it is claimed that there is a permanent disablement which is proved by PW5 Dr.Rakesh Girdhar by way of disability certificate Ex.P11 to be 35% however in his cross-examination this doctor admits that the whole body disability by this fracture comes to 17.5%. It is an accepted case that the claimant is a Mason by profession and this disability would certainly come in his way of earning though through the independent witness PW3 Dalbir Singh it is sought to be proved that the claimant was earning ₹200 per day from this profession and the learned Tribunal by some amount of guesswork and hypothetical assessment has awarded in lump sum an amount of ₹1,27,241 as compensation to this claimant which is contrary to the position of law. The learned Tribunal

ought to have considered the compensation under various heads as has been laid down in ‘**R.D.Hattangadi v. Pest Control (India) Private Limited**’ 1995 (2) PLR 298 SC, and in view thereof the claimant is certainly entitled to compensation considering his earnings to be ₹5,000 per month which is just and fair keeping in view his avocation at the time of the accident and following the multiplier method by applying multiplier of 10 which is the most appropriate keeping in view his age the annual loss on account of this disability comes to ₹4,500. Thus, in the light of **R.D.Hattangadi’s case** (supra) the claimant is certainly entitled to compensation under the following heads:

(A) Pecuniary Compensation

(i)	Compensation assessed on account of loss of earnings due to disability	₹45,000/-
(ii)	Compensation assessed on account of medical expenses and hospitalization ₹52,141 (rounded off to ₹53,000)	₹53,000/-
(iii)	Compensation assessed on account of services of attendant, special diet and conveyance	₹10,000/-
(iv)	Compensation assessed on account of loss of earnings during hospitalization and healing of fracture for a period of 6 months	₹30,000/-

(B) Non-Pecuniary Compensation

(i)	Compensation assessed on account of physical pain, mental agony and sense of wrong	₹10,000/-
(ii)	Compensation assessed on account of loss of beauty/enjoyment of life	₹20,000/-

Total	₹1,68,000/-
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Thus, learned Tribunal has taken the total loss and thus compensation on lower side which needs to be enhanced by way of

modifying the impugned Award and accepting the appeal in those terms and therefore, total amount of compensation comes to ₹1,68,000 (rupees one lac sixty eight thousand).

Besides this, the claimant is also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed.

No other argument has been raised.

Thus, the appeal stands partly allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

January 9, 2015
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