

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

FAO No.470 of 2006 (O&M)

Date of Decision: May 07, 2015

Kashmir Singh

.. Appellant

vs.

Darshan Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vishal Gupta, Advocate for the appellant.

Mr. Pardeep Goyal, Advocate for the Insurance Company.

1. Whether Reporters of Local Newspapers 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?

Kuldip Singh J.

The original file of the present appeal has been burnt in the fire incident which occurred in this Court in the year 2011.

This is claimant's appeal against the Award dated 05.09.2005 passed by the Motor Accident Claims Tribunal, Rupnagar (in short 'the Tribunal').

Briefly stated, on 25.03.2000 at about 2.15 p.m., the claimant-appellant was travelling in a bus bearing registration No.PB-12-1210, being driven by Darshan Singh-respondent No.1 in a rash and negligent manner. The bus went out of the control and turned turtle. As a result of the accident, the claimant-appellant received injuries. The Tribunal after examining the disability certificate (Ex.P-

1), granted the compensation to the tune of ₹10,000/- (rupees ten thousand only) along with interest @ 6% per month from the date of filing of the claim petition till its deposit with the Tribunal. There appears to be a clerical error in granting the rate of interest @ 6% per month. It should be @ 6% per annum.

The appellant is not satisfied with the quantum of compensation and has come up in the present appeal.

I have heard learned counsel for the parties and have also carefully gone through the case file.

It comes out that before the Tribunal, no record of the medical treatment was produced nor the medical bills were produced. Only disability certificate (Ex.P-1) was produced, wherein disability was mentioned at 35% as temporary disability.

The statement of Dr. Surjit Singh, PW2 shows that it was a case of fracture of knee cap. The doctor has stated that there is no union of knee cap and after the operation, the disability can be reduced to 15%. In his cross-examination, the doctor has further stated that it can go down to 5% after the operation. It goes to show that the claimant-appellant requires operation and that the fracture of knee cap is proved.

In these circumstances, even if there is no evidence in the form of medical record or medical bills, I am of the view that the compensation of ₹10,000/- is on the lower side.

Keeping in view the fact that the claimant-appellant will require operation of knee cap and after that he will be incapacitated

to work for 2-3 months, the compensation is enhanced from ₹10,000/- to ₹50,000/- (rupees fifty thousand only). The remaining part of the Award is maintained.

Accordingly, the present appeal is allowed to the aforesaid extent.

May 07, 2015
sarita

(KULDIP SINGH)
JUDGE