

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4498 of 2008 (O&M)
Date of Decision:05.10.2015

Ajay Partap Singh

....Appellant

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Ashwani Arora, Advocate for the appellants.

None for respondent No.1.

Mr. Parminder Singh Kanwar, Advocate for respondent No.2.

NAVITA SINGH, J.

1. The appellant, feeling dissatisfied with the award dated 14.2.2008 passed by Motor Accidents Claims Tribunal, Chandigarh (Tribunal for short), filed the present appeal seeking enhancement of the amount of compensation which was awarded to the tune of Rs.2,68,268/-.

2. Counsel for the appellant argued that there was 90% disability and therefore, multiplier should have been applied by the Tribunal in proportion to his age. Counsel for respondent No.2 argued that the disability was only with regard to the upper limbs and not with regard to the whole body and as such multiplier was not required to be applied. Counsel for the appellant contended that if both the upper limbs became disabled, the appellant was practically useless for any job or for doing even his own work. There were various fractures and he remained hospitalized for 107 days, also the amount of Rs.10,000/- for hospitalization, special diet, special attendant and transportation given cumulatively, was peanuts.

3. The Tribunal awarded an amount of Rs.2,00,000/- on account of permanent disability including pain and suffering, which was surely inadequate.

The appellant underwent tremendous, physical and mental agony and as such the amount for pain and suffering and for the disability should have been much higher.

4. Though the accident took place in 1998, the physical and mental agony which the appellant must have experienced is liable to be fairly compensated, in terms of money, despite the fact that there can otherwise be no compensation for the disability suffered by him. It is, therefore, held that the appellant shall be entitled to receive an amount of Rs.4,00,000/- lacs for disability and pain and suffering.

5. The amount awarded under the other heads cumulatively to the tune of Rs.10,000/- was also pittance and is enhanced to Rs.1,00,000/-.

6. So far as the income tax returns are concerned, those were rightly not taken into account by the Tribunal and properly discussed in para 17 of the award.

7. The total amount of compensation is enhanced by Rs.2,90,000/-. Enhanced amount shall fetch interest @ 6% per annum.

8. The appeal is disposed of in above terms.

**(NAVITA SINGH)
JUDGE**

05.10.2015
Ishwar

Whether to be referred to reporter: Yes