

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.1786 of 2010 (O&M)

Date of Decision: 11.05.2015

Ram Kumar

..... APPELLANT

VERSUS

Manoj Parsad and others

..... RESPONDENTS

PRESENT: - Mr. Satinder Khanna, Advocate
for the appellant.

Mr.M.B. Jain, Advocate
for respondent No.3-Insurance Company.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

- 1) Whether Reporters of the 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?

SHEKHER DHAWAN, J.

The claimant-injured is in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'The Tribunal') dated 30.09.2009 whereby 'The Tribunal' awarded compensation of ₹1,15,650/-.

Mr. Satinder Khanna, learned counsel for the appellant took the plea that the appellant had suffered 90% disability on account of functional impairment of his right hand as per statement of PW-4 Dr. Vikas Gupta and certificate Ex.PW4/A on the file. The appellant was earning ₹6,000/- per month. Now, he is unable to do any work. He has suffered a lot on account of pain and suffering and enjoyment of life. But 'The Tribunal' has not awarded 'just compensation.'

While arguing on this point, Mr. M.B. Jain, learned counsel for the Insurance Company took the plea that 'The Tribunal' has already awarded 'just compensation' because all the medical expenses have already been reimbursed to the appellant. Apart from that 'The Tribunal' ordered for payment of ₹40,000/- as compensation on account of pain and suffering and loss of enjoyment of life, so the appeal be dismissed.

Having considered the rival contentions raised in appeal, this Court is of the considered view that the appellant had suffered 90% functional impairment of his right hand, who was otherwise working as labourer and he was of the age of 45 years. He had to remain as indoor patient from 26.06.2007 till 07.07.2007. 'The Tribunal' has awarded compensation thereby reimbursing the actual

amount of ₹75,650/- on account of medical expenses. Apart from that, 'The Tribunal' has awarded a sum of ₹40,000/- on account of pain and suffering and loss of enjoyment of life. This Court is of the considered view that the appellant has not been duly compensated in this case as he had suffered a lot because of 90% functional impairment qua his right hand, who was working as labourer. He has suffered a lot on account of pain and suffering, loss of earnings for the period when he remained under treatment and loss of future earnings as well and loss of enjoyment of life also. It is also settled proposition of law that there is no hard and fast rule to determine the amount of compensation in such like cases and some what guess work has to be done.

In the present case, the amount of compensation on account of pain and suffering, loss of income as well as future earnings and loss of enjoyment of life is enhanced by ₹2,40,000/- against ₹40,000/- awarded by 'The Tribunal'. That way, enhanced amount of compensation of ₹2 lacs shall be payable to the appellant from the date of claim petition. The amount of compensation shall be payable within 45 days from today, failing which the appellant shall be entitled to receive interest @ 7.5% per annum from the date of claim petition till actual receipt of compensation.

However, the remaining conditions regarding

payment and disbursal of amount shall remain unaltered.

The appeal is accordingly partly allowed.

(SHEKHER DHAWAN)
JUDGE

May 11, 2015
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