

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

FAO No.6925 of 2011

Date of decision: 2nd February, 2015

Om Parkash

... Appellant

Versus

Darshan Lal and another

... 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. Sahil Khunger, Advocate for
Mr. Vinod Khunger, Advocate
for the appellant.

Respondent No.1 – ex parte.

Mr. Rajesh Sharma, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

In this appeal, challenge by the claimant/appellant Om Parkash is to the Award dated 17.01.2011 of the learned Motor Accident Claims Tribunal, Ferozepur which has awarded a sum of ₹40,000 to the claimant/appellant for the permanent disability suffered by him in a motor vehicular accident that took place on 02.12.2005 at 7.30 p.m. between the vehicle owned by Border Security Force and offending canter make TATA 407 bearing registration No.RJ-13G-

3011 owned and being driven rashly and negligently by Darshan Lal respondent.

Arguments of Mr. Sahil Khunger, Advocate appearing on behalf of Mr. Vinod Khunger, Advocate for the appellant that the accident was an outcome of rash and negligent driving by way of findings on issue No.1 has attained finality have not been controverted on behalf of the contesting respondent No.2 i.e. insurer through Mr.Rajesh Sharma, Advocate.

It is writ large on the records that the claimant has suffered injuries on both hands and it is his own testimony that he suffered fractures and a plate in his left hand was inserted besides having injuries on the backbone. From the day of accident for about four months till 03.12.2008 he had been under treatment and though claims having spent ₹46,000 on his treatment besides ₹1.00 lac on visits to PGIMER, Chandigarh and has even asserted being deprived of his service promotions. In the light of contentions, it has been rightly observed by the learned Tribunal that the claimant has failed to prove medical expenses as bills Mark 1 to Mark 53 were never proved on the record. The own admission of the claimant in his cross-examination that he has received ₹26,000 from the Government as medical reimbursement certainly cannot be lost sight of. The disability certificate Ex.P50 certainly corroborates his case of permanent disablement. Since onus to establish quantum of compensation and likely repercussions of this disablement was upon him, not much has come forth by way of evidence however, in the light of ratio laid down

in '**R.D.Hattangadi v. Pest Control (India) Private Limited**' 1995 (2) PLR 298 SC keeping in view age of the claimant to be 37 years and at the relevant time posted as a Constable in Border Security Force, the claimant is certainly entitled to compensation. In the light of the fact that there is a clear cut mention in the disability certificate of likely improvement from this disability, however, nothing has been led by way of documentary evidence of his claim of having been denied two promotions. Though the learned Tribunal has awarded highly insufficient compensation and there is no clear cut demarcation under what head the same has been awarded, claimant is certainly entitled to compensation under the various heads as follows:

(A) Pecuniary Compensation

(i)	Compensation assessed on account of hospitalization other than reimbursement, special diet and services of the attendant etc.	₹25,000/-
(ii)	Compensation assessed on account of expenses incurred on conveyance	₹20,000/-
(iii)	Compensation assessed on account of disablement	₹50,000/-

(B) Non-Pecuniary Compensation

(i)	Compensation assessed on account of physical pain, mental agony and sense of wrong	₹15,000/-
(ii)	Compensation assessed on account of loss of beauty/enjoyment of life	₹10,000/-

Total	₹1,20,000/-
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Thus, the claimant is entitled to a total compensation of ₹1,20,000 (rupees one lac twenty thousand) which by some amount of guesswork and hypothetical assessment in the absence of any

evidence is just and fair. Besides this, the claimant shall also be 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 impugned Award being not just and fair is modified by way of acceptance of the instant appeal in those terms.

**(FATEH DEEP SINGH)
JUDGE**

February 2, 2015
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