

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

FAO No.4936 of 2012

Date of decision: 30th January, 2015

Pawan Singh

... Appellant

Versus

Joginder Singh 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. I.P.S. Mangat, Advocate for
Mr. Parminder Singh, Advocate
for the appellant.

Service of respondent No.1 – dispensed with.

Mr. Rajneesh Malhotra, Advocate – Standing Counsel
for respondent No.2.

FATEH DEEP SINGH, J.

The injured-claimant/appellant Pawan Singh has sought to challenge the findings by way of Award dated 01.02.2012 passed by learned Motor Accident Claims Tribunal, Karnal awarding him compensation to the tune of ₹3,78,000 along with interest.

Heard at length Mr. I.P.S. Mangat, Advocate appearing on behalf of Mr. Parminder Singh, Advocate for the claimant/appellant;

Mr. Rajneesh Malhotra, Advocate representing the insurer/respondent No.2 and on perusal of the records.

It was on 21.04.2009 around 9.15 a.m. claimant was going on motorcycle bearing registration No.HR-05P-2144 towards Kurukshetra when in the area of ITI Chowk, Karnal he was hit by a truck bearing No.HR-37C-9337 leading to multiple injuries and his disability has been assessed to be 15% permanent.

The contentions of Mr. I.P.S. Mangat, learned counsel representing the appellant that the appellant is a Software Engineer, aged around 37 years and unmarried have been stoutly opposed by Mr. Rajneesh Malhotra on behalf of the insurer contending that there is no documentary proof of this avocation or qualification and which has led the learned Tribunal to assess the avocation of the injured claimant to be of a daily-wager and has taken the earnings to be ₹4,000 per month.

Appreciating these submissions, onus to prove issue pertaining to quantum of compensation was upon the claimant and though the claimant/appellant in his pleadings claims it so and was earning ₹10,000 per month but there is no documentary proof that has come in his statement as PW1. What is reflected is the medical bills Ex.P5 to Ex.P47 and admission certificate Ex.P48 and Ambulance bills Ex.P49 to Ex.P53. The testimony of PW3 Vikash only helps in corroborating the mode of accident. Deposition of Dr.Vinod Kumar PW2 only proves the disability assessed as 15% by virtue of disability certificate Ex.PW2/A and in his cross-examination this doctor says that

the overall disability of the whole body if calculated comes to 7.5% and which could not in any manner be displaced by the appellant to hammer home the point that the compensation so awarded was on the lower side.

The learned Tribunal has granted him medical expenses proved to the tune of ₹2,60,000 for his treatment in Fortis Hospital Mohali, Government Hospital Karnal and Haryana Nursing Home, Karnal. Learned Tribunal has rightly taken his notional income to be ₹4,000 per month due to lack of evidence as to the earnings and avocation and has awarded compensation by taking into consideration his disability to the tune of ₹54,000 for the same. Besides this, the Tribunal has awarded ₹16,000 for the loss of work/income; ₹30,000 on account of pain and sufferings; ₹8,000 towards transportation; ₹5,000 for special diet and future expenses and another amount of ₹5,000 on account of attendant charges.

Whereas to the mind of this Court, from the evidence on record and the likely repercussions the disability would have on future life, under these heads considering the welfare nature of the Statute the claimant is certainly entitled to ₹15,000 for special diet and ₹15,000 for expenses incurred on services of the attendant and is awarded ₹60,000 on account of his disability and therefore is granted a total compensation amounting to ₹4,04,000 (rupees four lacs four thousand). Findings of the learned Tribunal are a little on the lower side under these heads. Besides this, the claimant shall also be entitled to interest @7.5% p.a. 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.

In view of the foregoing discussion, the impugned Award thus is modified to that extent and the appeal stands allowed in those terms.

No costs.

(FATEH DEEP SINGH)
JUDGE

January 30, 2015
rps