

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

FAO-6077-2012

Date of decision: 15.10.2015

Om Parkash

...Appellant

Versus

Manu and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.AK Bishnoi, Advocate for the appellant

None for respondent No.1.

Mr.GL Bajaj, Advocate for respondent No.2

Mr.Amit Jaiswal, Advocate for respondent No.3.

Mr.Kapil Bansal, DAG, Haryana
for respondents No. 4 and 6

Mr.Pankaj Mehta, Advocate for respondent No.5

Mr.MB Jain, Advocate for respondent No.7.

SNEH PRASHAR, J.

The present appeal has been filed by the claimant-appellant seeking enhancement of the compensation awarded to him vide award dated 18.7.2012 passed by learned Motor Accident Claims Tribunal, Hisar.

The submissions made by learned counsel for the parties

have been heard.

Learned counsel for the appellant submitted that on account of the accident, the appellant has suffered cervical injury with quadriplegia and is confined to bed for his whole life. He has become 100% disabled. The Tribunal erred in granting him only an amount of Rs.2,30,000/- in addition to the medical expenses whereas he was doing job of security guard in a private company and was earning Rs.5500/- per month which he lost and is now unable to earn anything. Submitting that the compensation awarded by learned Tribunal is wholly inadequate, learned counsel prayed that the same be enhanced.

On the other hand, learned counsel for the respondents resisted the prayer of the appellant and submitted that the compensation awarded by the Tribunal is quite just and adequate.

There is no denial that the appellant suffered injuries due to the accident. PW4 Dr. Lalit Mohan Bansal, Orthopedic Surgeon deposed that the appellant was admitted in his hospital on 13.4.2010 on account of the injuries suffered by him in a road side accident. He was suffering from cervical injury with quadriplegia. He was discharged on 5.5.2010. At the time of discharge the condition of the patient was quadriplegia with no recovery. The doctor PW4 explained that recovery depends on the type of injury to cervical

cord which was severe in this case.

PW5 Dr. Reena Jain, Orthopedic Physician, GH Hisar proved the disability certificate Ex.P84 according to which the appellant suffered 100% disability qua the whole body. PW5 deposed that there are remote chances of reduction of disability with passage of time and with physiotherapy.

Though from the disability certificate Ex.P84 proved by PW5 Dr.Reena Jain, it appears that on account of cervical spine injury suffered by the appellant, he has suffered 100 % disability qua the whole body, but at the same time, the fact is that the appellant independently appeared in the witness box and made deposition. There is no observation of the Tribunal that he was unable to walk or was brought in the court with the help of some person or on a wheel chair. The said being the condition of the claimant-appellant, it can be said that he may no longer be capable of doing some manual work to earn but it may be possible for him to get engaged in some self employment/ occupation, which can be discharged while sitting. It is not the statement of the doctor, who proved the disability certificate that the appellant was confined to bed and was totally incapable of doing any work.

Keeping in view the nature of injuries suffered by the appellant, for granting just and adequate compensation on account

of disability, which is to the extent of 100%, it shall be judicious to adopt the multiplier system. The appellant was 49 years of age at the time of accident. The claim of the appellant that he was employed as security guard with Muthoot Finance Limited and was getting a salary of Rs.5500/- per month, could not be substantiated by any document. There is no proof of payment of salary to the appellant by the company. Only a certificate issued by the company is on record. In the absence of required documentary evidence, treating him to be a casual labourer, his notional income is assessed as Rs.36000/- per annum and the multiplier of 13 will be appropriate. The amount awarded under other heads i.e. Rs.2,08,833 (treatment expenses), Rs.15,000/- (special diet and transportation) and Rs.15,000/- (mental agony and pain and suffering) is adequate.

Accordingly, the total compensation comes to Rs.7,06,833/- i.e. Rs.36000/- notional income x 13 (multiplier) + Rs.2,38,833/- medical expenses and other conventional heads. The enhanced compensation of Rs.2,68,000/- shall be paid to the claimant-appellant within 45 days from the date of the receipt of the certified copy of this judgment, failing which, the same shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation.

Resultantly, the present appeal is partly allowed and the impugned award is modified to the above extent.

15.10.2015
gsv

(SNEH PRASHAR)
JUDGE