

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

FAO No.1389 of 2013 (O&M)

Date of Decision: 24.03.2015

Narender Kumar

.....Appellant

Versus

Surjit Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of 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?

Present:- Mr. Dheeraj Narula, Advocate,
for appellant.

Mr. Ashok Khunger, Advocate,
for respondents No.1 and 2.

Mr. Sukhdarshan Singh, Advocate,
for respondent No.3.

SHEKHER DHAWAN, J

The present appeal is challenge to the award dated 05.12.2012 by Motor Accident Claims Tribunal, Sirsa (hereinafter referred as 'The Tribunal').

2. Brief facts, relevant for the purpose of decision of the present appeal are that on 29.10.2010, Narender Kumar, appellant was going on tractor trolley which was being driven by Lal Chand. Truck bearing No.RJ19-1G-6912 came from back side which was being driven by Surjit Singh in rash and negligent manner and struck against the trolley. Resultantly, the tractor trolley turned turtle and Lal Chand fell in 'kuccha' portion of the road and Narender Kumar fell on the road and rear tyre of the truck ran over his leg. Narender Kumar was taken to hospital for treatment and then to PGIMS Rohtak where he remained as indoor patient till

08.12.2010. He was again admitted in PGIMS Rohtak on 28.01.2011 and was discharged on 02.02.2011. Matter was reported to the police vide FIR No.735 of 31.10.2010. As per the claimant, the accident had taken place because of rash and negligent driving of respondent No.1 i.e. Driver of the truck and claimed compensation of ₹10,00,000/-.

3. Respondents denied the averments of the claim petition and prayed for dismissal of the claim petition. Respondent No.3 i.e. Insurance company also submitted that driver of the offending truck was not having any valid driving licence and petition be dismissed.

4. On these facts 'The Tribunal' awarded compensation of ₹1,80,339/- on account of payment towards medical expenses, pain and suffering, special diet and on account of 30% disability. Being aggrieved by the amount of compensation awarded by 'The Tribunal', the claimant filed the present appeal before this Court.

5. Mr. Dheeraj Narula, Advocate learned counsel for the appellant took the plea that Tribunal has completely ignored the fact that claimant had suffered 30% disability. He remained as indoor patient for a period of one month and 15 days which includes treatment from PGIMS Rohtak. The age of injured is just 26 years. His medical treatment is still going on. So, the amount of compensation be suitably enhanced.

6. Mr. Sukhdarshan Singh, Advocate learned counsel for respondent No.3 i.e. Insurance company took plea that 'The Tribunal' has already awarded 'Just Compensation' and the appeal be dismissed.

7. Having considered the rival contentions raised by learned counsel for the parties, this Court is of the considered view that most of the facts are not disputed in any manner. The accident took place on 29.10.2010 resulted

into injuries to appellant Narender Kumar and the same also resulted into 30% disability. The age of claimant is just 26 years. 'The Tribunal' has awarded a sum of ₹60,000/- towards disability although the disability is qua his leg. The treatment of appellant is still going on. The income of claimant was ₹10,000/- per month by doing the agricultural work. He was also running a coaching center for the students of 10th standard. It is also not disputed that at such a young age, with 30% disability qua his leg, claimant shall have to suffer throughout his life and he will have to look for the assistance from others. 30% disability qua his leg has certainly reduced his earning capacity. Though there cannot be any strict rule to determine amount the compensation but somewhat guess work has to be done. Accordingly, in the present case the amount of compensation against permanent disability of 30%, raised to ₹90,000/-. As the claimant remained admitted in the hospital including PGIMS Rohtak on account of special diet and transportation compensation enhanced from ₹25,000/- from ₹20,000/-. However, actual expenses on account of medical expenses ₹85,339/- in this case have already been awarded to the claimant. The claimant has not been adequately compensated on account of loss of income and the same amount is enhanced to ₹50,000/- from ₹25,000/-. The total enhanced amount is as under:

Sr. No.	Particulars	Amount
1.	Disability	₹ 30,000/-
2.	Transportation & special diet	₹ 5,000/-
3.	Loss of income	₹ 25,000/-
4.	Total	₹ 60,000/-

8. Remaining conditions regarding payment of interest and disbursal

of the amount shall remain unaltered. The enhanced amount of compensation be deposited by the Insurance Company within 45 days.

9. Accordingly, the appeal is partly allowed.

**(SHEKHER DHAWAN)
JUDGE**

March 24, 2015

msd