

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2310 of 2015 (O/M)
Date of decision : 7.4.2015

TATA AIG General Insurance Co. Ltd. Appellant

Versus

Sanjay Kumar Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajesh K. Sharma, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not. Yes
3. Whether the judgment should be reported in the digest ? Yes

-. -

-. -

KULDIP SINGH, J. (ORAL)

Applicant Sanjay Kumar Singh (respondent No. 1 herein), who was working in Indian Air Force, met with an accident on 13.4.2011 on account of rash and negligent driving of Toyota Innova Car No. HR-68-4938 by respondent No. 2, namely, Arun Kapoor. As a result of the accident, he sustained multiple injuries on vital organs of the body including fracture on right tibia fibula, right leg, operated twice and rods, plates and screws were inserted. Due to the accident, he has lost the career prospects and may not be able to get extension in service in Indian Air Force. On medical examination, his disability was found to be 20% qua the right lower limb. It was further stated that the claimant (respondent No. 1

herein) will be able to do only indoor duties. It was further stated that the physical training for the patient regarding any further promotion or extension in service is not possible. He cannot perform heavy duty. The disability assessed is permanent and final. The Motor Accident Claims Tribunal, Chandigarh (in short 'the Tribunal') awarded the following compensation, vide award dated 15.10.2014 :-

<u>Sr. No.</u>	<u>Head under which amount awarded</u>	<u>Amount</u>
1	Compensation on account of expenses incurred on medical treatment.	Rs. 8337.00
2	Compensation on account of permanent disability	Rs. 50,000.00
3	Loss on account of Earned Leave	Rs. 1,68,000.00
4	Loss of future income due to permanent disability	Rs. 10,75,200.00
5	Compensation on account of period of admission in hospital	Rs. 84,000.00
6	Attendant Charges	Rs. 16,000.00
7	Compensation towards transportation charges	Rs. 25,000.00
8	Compensation on account of pain and suffering	Rs. 50,000.00
9	Compensation on account of nutritious diet.	Rs. 20,000.00
	TOTAL	Rs. 14,96,537.00

Learned counsel for the appellant has relied upon the authority of the Apex Court in Raj Kumar Versus Ajay Kumar and another, (2011) 1 Supreme Court Cases 343 and has argued that the effect of the permanent disability on the earning capacity of the injured is to be seen. In the said authority, the Apex Court has

observed as under :-

“ Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability. The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.”

The objection of the learned counsel for the appellant is only regarding Rs. 10,75,200/- granted on account of loss of future income due to permanent disability.

The facts of the case show that injured in this case is 35 years old and is employed in Indian Air Force. In this case, Dr. Shardaindu Sharma (PW4) was examined to prove the disability certificate (Ex.C34). He was cross examined at length. He had deposed that the claimant (respondent No. 1 herein) will be able to do only indoor duties and that physical training for the patient regarding any future promotion and extension in service is not

possible. He cannot perform heavy duty. The disability assessed is permanent and final. It goes to show that the claimant will not be eligible for extension in service and his prospects for future promotion are adversely effected. Consequently, his income on account of continuing in job and future promotion are adversely effected. It is a common knowledge that in the Air Force after certain age, the extension is granted and the officers/officials are also assessed for their suitability for promotion. Therefore, the loss of future income due to permanent disability was rightly assessed even when the authority of the Apex Court in Raj Kumar's case (supra) is applied. In view of the matter, I do not find any force in the present appeal.

Consequently, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

7.4.2015
sjks