

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

FAO No.5333 of 2013 (O&M)

Date of Decision: 25.05.2015

Ram Karan

.....Appellant

Versus

Veda and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present:- Mr. Amit Kashayap, Advocate for
Mr. Rajinder Goyal, Advocate,
for appellant.

None for respondents No.2 and 3.

Mr. R.S.Sharma, Advocate,
for respondent No.4.

SHEKHER DHAWAN, J

Present appeal for seeking enhancement of compensation against award dated 13.03.2013 by Motor Accident Claims Tribunal, Kaithal (hereinafter referred as 'The Tribunal') whereby 'The Tribunal' awarded compensation to the tune of ₹80,000/- on account of injuries sustained in the accident.

2. Facts relevant for the purpose of decision of present appeal are that on 08.03.2009 appellant was going in canter bearing registration No.HR-33F-0390 from Tohana for unloading the material at Karnal. They were going towards sand mine on Meerut road for loading purpose and when they reached near Nagla Farm Bus Stop tractor-trolley bearing

registration No.UP-17C-3539 struck against the canter. Resultantly claimant sustained injuries. Matter was reported to the police.

4. Respondents contested the claim petition.

5. At the time of arguments Mr. Amit Kashayap, learned counsel for appellant took the plea that 'The Tribunal' has not awarded 'Just Compensation' because appellant had suffered 55% disability and remained as indoor patient from 02.03.2010 till 03.04.2010 i.e. for 32 days. The age of claimant is 43 years and was working as driver on a canter. He had to engage attendant for the period of treatment and for follow up treatment but 'The Tribunal' has not awarded 'Just Compensation'.

6. While arguing on this point Mr. R.S.Sharma, learned counsel for respondent-Insurance Company took the plea that the accident had taken place because of rash and negligent driving of canter driver himself or at the most it is because of the contributory negligence. 'The Tribunal' has already awarded excess amount and there is no merit in the appeal and same be dismissed.

7. Having considered the rival contentions raised by learned counsel for both the parties this Court is of the considered view that it had come in evidence before 'The Tribunal' that accident had taken place because of rash and negligent driving of respondent No.1 and it was not a case of contributory negligence as per disability certificate Ex.P-6. Appellant had sustained 55% disability. 'The Tribunal' had returned the findings that the disability certificate was not proved as per law.

8. Identical matter was before Hon'ble Supreme Court in case **Raj Kumar Vs. Ajay Kumar and anothers 2011ACJ 1** and Hon'ble Apex Court laid down the law that in such like cases of motor vehicle accident

medical certificate may be considered thereby dispensing the oral evidence of the Doctor. So taking into consideration the disability certificate Ex.P-6 and as per law laid down by Hon'ble Supreme Court 'The Tribunal' has not awarded 'Just Compensation' and appellant certainly entitled to receive enhanced compensation.

9. Now the next question comes to is how much should be the compensation in this case. Keeping in view the facts of the case and compensation assessed by 'The Tribunal' this Court is of the considered view that the appellant is certainly entitled to receive additional sum of ₹1,00,000/- on account of permanent disability suffered by him in this accident.

10. The enhanced amount of compensation shall be payable from the date of claim petition along with interest @ 7.5% per annum. Remaining conditions regarding disbursal of amount shall remain unaltered.

11. Appeal partly accepted.

**(SHEKHER DHAWAN)
JUDGE**

May 25, 2015

msd