

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

FAO No. 5874 of 2013 (O&M)

Date of decision: August 10, 2015

Jagbir Singh @ Jagga @ Jaggu

...Appellant

Versus

Fakkar Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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. Gaurav Mohunta, Advocate,
for the appellant.

Mr. Arihant Goyal, Advocate,
for respondent No.2.

Mr. MB Jain, Advocate,
for respondent No.3.

K. KANNAN, J. (Oral)

CM No. 24316 CII of 2013

There is delay of 656 days in filing the appeal. Learned counsel for the insurance company has very serious objection and states that there is no justification at all for condoning the delay. The appellant suffered very serious head injuries and I would take the reasons given as appropriate and condone the delay in filing the appeal.

The application stands disposed of.

Main case

1. Appeal is for enhancement of compensation for the injuries suffered in an accident on 3.7.2010 involving of collision of a car and a

motorcycle. The appellant was riding the motor cycle. He was 26 years of age and he had been treated initially at the government hospital at Jind and later taken to Sriganga Ram Hospital at New Delhi for critical care. He had a total period of hospitalization of 27 days in two spells. The doctor who had been examined referred to the fact of two operations as having been performed on him and assessed his disability at 75% due to post operative case of head injuries. There had been a frontal lobectomy and he had suffered loss of vision of left eye, he had fracture on both bones of his right leg with plating and fracture of left leg with nailing. He suffered a left foot drop with weakness of both lower limbs. The doctor has certified that he could stand only with support. The Tribunal took note of the medical expenses to the tune of ₹6.40 lakhs, provided with additional charges for pain and suffering at the modest rate and provided for loss of amenities for the disability suffered at ₹1.40 lakhs and thus awarded total compensation of ₹8,03,500/-.

2. He is an agriculturist and he had given evidence to the effect that he owns about 18 acres of land. The assessment to compensation, in my view, is grossly inadequate and it has not taken properly note of loss of earning capacity that ought to have resulted. He had serious injuries to his skull that required removal of front lobe of his brain. He had open reduction of fractures by surgery in his lower limbs and suffered a foot drop as well. I will take the average income that he would have earned at ₹4,500/- per month and take loss of earning capacity at 50% for subsequent disability that he was shown to have suffered. I will increase the component of pain and suffering as well for a head injury ought to be compensated at higher scale of ₹25,000/- and I will provide for another ₹25,000/- for his

fractures and surgical intervention. I will re-work the compensation, therefore, provide for additional sum for loss of earning by applying multiplier of 17, for 50% of loss of earning capacity and provide for additional sum for pain and suffering in the manner referred to above. I will also make provisions for special diet and transportation at nominal rates, given the fact that he had been taken for treatment at two places and tabulate the compensation as under:-

<i>Injured Case</i>		<i>Date of accident</i>	
<i>Age</i>	<i>26</i>	<i>03/07/10</i>	
Period of hospitalization	27		
Occupation & Income	Agriculturist	18000	4500
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1	Loss of Income from to		10000
2	Medical Expenses		
(i)	Medicines	6,40,000	6,40,000
(ii)	Hospital charges		
(iii)	Attendant charges	13500	@₹ 500 per day x 27=13,500
(iv)	Special Diet		5000
(v)	Transportation		5000
3	Pain and suffering	10000	50000
4	Disability	70%	70%
5	Loss of earning capacity		
(i)	Income		4500
(ii)	Multiplier		17
(iii)	50% of loss of earning capacity		4,59,000
6	Loss of amenities	1,40,000	1,40,000
7	Reduction of life expectancy		
8	Loss of prospect of marriage		
	Total	8,03,500	13,22,500

3. The total compensation payable shall be ₹13,13,500/- and the amount in excess over what was awarded will also attract interest @9%

from the date of the petition till the date of payment. The liability shall be on the insurance company. The award stands modified and the appeal is allowed to the above extent.

August 10, 2015
prem

(K.KANNAN)
JUDGE