

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

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Regular Second Appeal No.4921 of 2013 (O&M)
Date of Decision: September 03, 2015

Ranbir Singh

...Appellant

Versus

Karamjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjeev Pandit, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.13218-C of 2013

Prayer in this application is for condonation of delay of 28 days
in filing the appeal.

For the reasons mentioned therein, the application is allowed.

Delay of 28 days in filing the appeal is condoned.

CM No.13219-C of 2013

Prayer in this application is for condonation of delay of 1286
days in re-filing the appeal.

The reason assigned for the delay in re-filing the appeal is that
after the Registry raised some objections on 01.10.2009, the file was kept in
the office of the counsel for removing the said objections but in the
interregnum he had to shift his house from House No.2507, Sector 22-C,
Chandigarh to House No.1101, Sector 15-B, Chandigarh, because of which
the said file got mixed up. The said file was traced and the appeal re-filed,
which has resulted in delay of 1286 days in re-filing the appeal. The
application is supported by the affidavit of Clerk of the counsel.

For the reasons mentioned above, the delay of 1286 days in re-filing the appeal stands condoned.

The application stands allowed accordingly.

RSA No.4921 of 2013

Challenge in this appeal is to the judgments and decree passed by the Courts below, by which initially the trial Court granted a compensation of ₹28,960/- and on an appeal preferred by the appellant-plaintiff, the said amount has been enhanced to ₹63,960/-. Prayer in this appeal is for further enhancement of the amount of compensation granted to the appellant-plaintiff.

2. It is the contention of the counsel for the appellant-plaintiff that the Courts below have not taken into consideration the permanent disability to the extent of 10% which has been suffered by the appellant-plaintiff. He contends that the Courts have not taken into consideration the expenses, which have been incurred on the taxi. In support of the same, he relies upon the receipt given by the taxi driver Padam Singh PW-6. His further contention is that since the appellant-plaintiff has suffered disability of 10% because of which he is unable to drive the tractor and had to engage a driver for the tractor and had paid an amount of ₹3,000/- per month as salary for one year, no amount of compensation has been granted. He, therefore, contends that compensation granted to the appellant-plaintiff requires enhancement.

3. I have perused the judgments passed by the Courts below with the assistance of the counsel for the appellant-plaintiff but am unable to accept the aforesaid contentions in the light of the fact that the Lower Appellate Court has rightly appreciated the evidence and had granted

adequate compensation as per the disability suffered by the appellant-plaintiff. It is apparent that the disability, which has been assessed to be 10% is only of a minor nature as in the evidence of Dr. J.S. Dhami PW-9, it has come that due to operation of the fracture of lower humerus and upper end of alna left side there is slight limitation of flexion and extension of left elbow. However, it is not mentioned in his statement that whether the appellant-plaintiff would be able to drive a tractor or not. In the absence of such evidence coming on record, which would indicate that there would be impairment in the driving of a tractor non-grant of compensation on this count is fully justified. As regards the taxi charges as per the receipt Exhibit P-16 tendered by Padam Singh PW-6 taxi driver, the compensation cannot be granted as it is a mere receipt without there being any proof with regard to it being a part of the receipt book which is regularly maintained by said Padam Singh-taxi driver.

4. No substantial question of law is involved in the present appeal.

5. There being no illegality or misreading of the evidence on the part of the Lower Appellate Court while granting compensation and there being no further scope for enhancement thereof, the present appeal stands dismissed.

September 03, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE