

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

**C.M. No.27423-CII-2015 in/and
F.A.O. No.1408 of 2002 (O&M)
Date of Decision : 03.05.2016**

Situ @ Surinder Singh

..... Appellant

versus

Ram Phal and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. S.R. Hooda, Advocate
for the applicant-appellant.

Mr. Vipul Sharma, Advocate
for Mr. Paul S. Saini, Advocate
for respondent No.2.

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?

AJAY TEWARI, J. (Oral)

C.M-27423-CII-2015

For the reasons recorded, the application is allowed. The main case is taken up for hearing today itself.

FAO-1408-2002 (O&M)

This appeal has been filed by the claimant for the enhancement of compensation on account of injuries suffered by him in a motor vehicular accident on 03.05.1998.

The Tribunal while taking the income of Rs.5000/- p.m.

awarded lumpsum compensation of Rs.1,80,000/- alongwith interest @ 9% p.a.

Learned counsel for the appellant has argued that the appellant suffered 80% disability. His income was proved @ Rs.5000/- p.m. and the Tribunal awarded lumpsum compensation without considering any fact.

Learned counsel appearing for the respondent No.2-insurance company has accepted that the compensation had to be awarded under different heads and this lumpsum compensation could not have been awarded.

Learned counsel for the appellant has further argued that for 80% disability suffered by the appellant he was entitled to compensation of Rs.8,16,000/-. It is further stated that he is completely unemployable.

Learned counsel for the respondent No.2 has however argued that the income of Rs.5000/- was alleged only on the bald statement of a third person and it cannot be taken into account without a pinch of salt.

In my opinion, there is some weight in the argument of learned counsel for the insurance company. Notwithstanding the salary it has been proved that the appellant was at least a skilled worker. As per the relevant notification, wages of skilled worker in the year 1998 in Haryana were Rs.2000/- p.m. The age of the appellant was 27 years. The annual loss to him in the circumstances would be $2000 \times 12 \times 17 = 4,08,000/-$ and the same is awarded accordingly.

Learned counsel for the appellant has further relied upon the judgment in the case of *Sanjay Batham vs. Munnalal Parihar and others*,

reported as 2011(4) RCR (Civil) 937, to contend that in such a case where the victim had suffered 50% disability the Hon'ble Supreme Court awarded Rs.2 lacs for pain and suffering and loss of amenities and Rs.2 lacs for future treatment. He has further argued that nothing has been awarded on account of hospitalization charges. However, the appellant was hospitalized for 42 days and even if no bills have been placed on record some amount should have been awarded for hospitalization, transportation and special diet.

Keeping in view the fact that the appellant was in hospital for 42 days, I deem it appropriate to award an amount of Rs.1 lac for medical expenses, special diet, attendant and travelling charges, Rs. 1 lac for pain and suffering and loss of amenities and Rs.1 lac for future treatment. Ordered accordingly. The total amount now awarded is Rs.7,08,000/- and the amount already awarded would be set off against the amount now awarded. The enhanced amount shall be paid alongwith interest @ 8% p.a. from the date of filing of claim petition till today and that would be 18 years. Out of the total enhanced amount a sum of Rs.10 lacs be put in a fixed deposit for five years and the yearly interest thereon would be handed over to the appellant. The remaining amount be disbursed to him in cash.

The appeal is allowed in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

May 03, 2016

ashish

(AJAY TEWARI)
JUDGE