

In the High Court of Punjab and Haryana at Chandigarh

FAO No.1422 of 2000 (O&M)

Date of decision: February 23, 2016

Subhash Chand

..... Appellant

Versus

Gurbax and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Umsh Narang, Advocate for the appellant.

Mr. B.S. Tanque, Advocate for respondent No.3.

1. *Whether Reporters of Local Newspapers 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)

This appeal has been filed by the claimant for the enhancement of compensation and to modify the award dated 16.12.1999 on account of injuries suffered by the appellant in a motor vehicle accident.

Brief facts are that on 04.11.1996 appellant Subhash along with Narain Dass and others was going to village Mohmadpur Rohi from Hisar. The offending vehicle was driven by respondent No.1 i.e. Gurbax at a very high speed rashly and negligently in a zig-zag manner and

without following the traffic rules. When they reached near the minor at

village Bhoda on G.T. Road then respondent No.1 wanted to over-take the tractor but he lost control of the vehicle which hit a Shisham tree after crossing the wrong side of the road due to which the appellant and other received injuries. The appellant and others were shifted to Pahwa Hospital, Fatehabad and he was also remained under treatment at Hisar and is still under treatment for the injuries received by him.

The Tribunal has awarded an amount of ₹3,00,000/- along with interest @ 12% per annum i.e. ₹1,00,000/- on account of his disability, ₹50,000/- for pain and suffering, ₹25,000/- for loss of income during his hospitalization and a sum of ₹1,25,000/- for his treatment.

Learned counsel for the appellant submits that in this case, the appellant has suffered 100% disability and, therefore, on account of disability a sum of ₹01 lac more has to be awarded. Learned counsel for the Insurance Company is not in a position to deny this fact and consequently I award Rs.one lakh more towards disability.

Learned counsel has further argued that nothing has been awarded on account of loss of future income. As per the averments, the appellant was an agriculturist and it was claimed that he was earning ₹5,000/- per month in the year 1996. A farmer has to be taken as a skilled labourer. It has been held that an agriculturist cannot be taken to be an un-skilled labourer since agriculture is skilled vacation. As per the labour department, the minimum wages for skilled labourer in the State of Haryana in the year 1996 was ₹1550/-. Keeping in view the entire conspectus of fact, I take the loss of further income of the claimant as Rs.1550/- per month. Since he was 34 years of age, multiplier of 16

has to be applied.

Further, I award ₹50,000/- more for special diet, ₹50,000/- for attendant and ₹50,000/- for transportation charges. The enhanced amount shall be paid along with interest @ 8% from the date of filing of the claim petition till the date of realization. It is made clear that apart from the individual amount the apportionment and management of the enhanced amount would be as per the direction of the Tribunal.

The appeal is disposed of in the above terms and the award is modified accordingly.

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

(AJAY TEWARI)
JUDGE

February 23, 2016
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