

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3642 of 1999 (O&M)

Date of decision: February 23,2016

Sukhwinder Singh

..... Appellant

VS.

Pepsu Road Transport Corporation and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Mr. Vijay Sharma, Advocate
for the appellant.

Mr. Gaurav Talwar, Advocate for
Mr. Sumit Jain, Advocate
for the respondent No. 1 and 2.

Mr. B.S. Taunque, Advocate
for respondent No. 4.

Mr. Jainainder Saini, Advocate
for respondent No. 5.

Mr. R.S.Modi, Advocate for
respondent No. 6.

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?**

K.KANNAN,J (Oral)

1. The appeal is for enhancement of claim for an accident resulting in grievous injuries to the claimant. He had fractures on both of his legs and had 3 spells of treatment and hospitalisation. The doctor who treated him, Dr. K.K.Singh Gill (AW-2), referred to his initial hospitalisation and discharged after two weeks.

His right leg had already been operated and nailing done. He was operated on 22.08.1996 and dynamic compression plating was done. Bone grafting was also done. AW8 Dr. J.P.S. Walia gave evidence that the claimant was again admitted at the hospital at Patiala and operation was again done by a team of doctors and discharged. In this process, he had, therefore, 3 different operations, all for treating his fractures and it had resulted in shortening of lower limb by half an inch. The disability was assessed at 45%.

2. The Tribunal had awarded ₹1,45,000/- under various heads that include a loss of income at ₹ 13000/- and ₹ 17000/- as medical expenses. He is said to be agriculturist having about 15 acres of land and the disability that he suffered has seriously hampered his ability to work in the field although he claimed that he spent about ₹ 1,50,000/- for medical expenses. He had produced receipts of ₹ 17,000/- by way of medical bills which was awarded to him. The appellant is unable to produce with any better details of the medical expenses and I cannot, therefore, provide for anything in addition to what has already been granted. His hospitalisation at repeated intervals show that he was hospitalised for a period of 77 days and he became completely disabled during and after operation. I am prepared to assume that he would have earned not less than ₹ 5000/- and take the loss of income at ₹ 35000/-. Considering the fact that the accident took place in the year 1995 and that he had prolonged treatment including surgical intervention on three occasions, I will increase the component of pain and suffering from ₹ 40,000/- to ₹ 50,000/-, for the loss of amenities arising out of the disability, I will increase from ₹ 60,000/- granted by the Tribunal to ₹ 75,000/-. The counsel argues that serious functional disability of the lower leg has hampered his earnings and the Tribunal has not provided for the same. There has been prolonged treatment for injuries complained of. I take the 45% disability to also result in a loss of earning

capacity to the tune of 25% and taking the income at ₹ 5000/- and applying a multiplier of 14, I assess the loss of earning capacity at ₹ 2,10,000/-. The various heads of claims and tabulated as under:

<i>Injured Case</i>		<i>Date of accident</i>	
<i>Age</i>	<i>45-46</i>	<i>10.12.1995</i>	
Period of hospitalization	77 days		
Occupation & Income	Agriculturist		
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1	Loss of Income	13000	35000
2	Medical Expenses		
	(i) Medicines	17000	17000
	(ii) Hospital charges		
	(iii) Attendant charges		10000
	(iv) Special Diet	7000	7000
	(v) Transportation	8000	8000
3	Pain and suffering	40000	50,000
4	Loss of amenities due to disability	60000	75,000
5	Loss of earning capacity		
	(i) Income		5000
	(ii) Multiplier		14
(iii)	25 % of loss of earning capacity		12 x1250
6	Loss of earning capacity(axbxc)		2,10,000
7	Reduction of life expectancy		

<i>Injured Case</i>		<i>Date of accident</i>	
8	Loss of prospect of marriage	---	---
	Total	1,45,000	4,12,000

3. There shall be total compensation at ₹ 4,12,000/-. The additional compensation, shall attract interest at 7.5 % from the date of petition till the date of payment. The liability shall be in the manner as assessed already by the Tribunal making the insurer of the vehicle and the Road Transport Corporation as equally liable.

4. The appeal is allowed on the above terms.

FEBRUARY 23, 2016
Rajeev

(K.KANNAN)
JUDGE