

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

**FAO No.3872 of 2005 (O&M)
Date of decision : 02.03.2016**

Sunil Kumar

.....Appellant

Versus

Pappu alias Om Parkash and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Satbir Gill, Advocate for appellant.

Mr. Sandeep Suri, Advocate for respondent No.3.

Mr. Radhe Shyam Sharma, Advocate for
respondents No.4, 5 and 6.

Mr. Neeraj Khanna, Advocate for respondent No.7.

DARSHAN SINGH, J.

CM-17006-CII-2005

There is delay of 168 days in re-filing the present appeal.

The appellant has filed an application under Section 151 of the Code of Civil Procedure, 1908 for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and delay in re-filing the appeal is hereby condoned.

FAO No.3872 of 2005

The present appeal has been preferred by appellant-claimant Sunil Kumar against the award dated 14.10.2004, passed by learned Motor Accidents Claims Tribunal, Sirsa (hereinafter called the Tribunal), vide which he has been awarded a sum of Rs.1,55,000/- as compensation on account of the injuries received by him in the motor vehicular accident which took place on 06.01.2002.

2. Learned counsel for the claimant contended that the injured lost one eye. He has suffered total 35% disability but the learned Tribunal has awarded only Rs.70,000/- as compensation towards disability. Very less amount has been awarded towards pain and suffering and disfiguration of the face. Thus, he contended that the learned Tribunal has not awarded just compensation to the claimant.

3. On the other hand, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has awarded compensation keeping in view all the heads. Rs.70,000/- has been awarded as compensation towards disability, which is just and appropriate. The compensation awarded under other heads is also adequate and the claimant is not entitled for any future enhancement.

4. I have duly considered the aforesaid contentions.

5. The medical evidence brought on record by the appellant-claimant shows that he has suffered fracture of lower part of right humerus and fracture roof and lateral wall of orbit. Ex.P8 is the disability

certificate of the claimant which shows that he has suffered 5% disability on account of mal-united fracture and 30% disability on account of the loss of right eye. Total disability suffered by the claimant is 35%. The claimant used to work on part time at the tea stall and was earning Rs.2000/- per month. He has suffered 35% disability. The future loss of income comes to Rs.700/- per month *i.e.* Rs.8400/- per annum. The age of the claimant was 14 years at the time of the accident, so the multiplier of 15 shall be applicable. So, the claimant shall be entitled to sum of Rs.1,26,000/- on account of the permanent disability suffered by him instead of Rs.70,000/- awarded by the learned Tribunal. The claimant shall also be entitled to a sum of Rs.25,000/- on account of pain and suffering instead of Rs.10,000/- awarded by the learned Tribunal. The learned Tribunal has awarded Rs.50,000/- on account of loss of chance of marriage due to disfiguration of face and loss of left eye. This amount is enhanced to Rs.1,00,000/-. The learned Tribunal has rightly awarded a sum of Rs.10,000/- towards loss of income during the period of hospitalisation, treatment and recovery, Rs.10,000/- towards treatment expenses and Rs.5000/- towards transportation for follow up treatment. In this way the total amount comes to Rs.2,76,000/- (1,26,000 + 25,000 + 10,000 + 10,000 + 1,00,000 + 5000).

6. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.2,76,000/- from Rs.1,55,000/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realization at the rate of

interest as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

02.03.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**