

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

FAO No.5365 of 2006
Date of decision: 12.02.2016

Vikrant Chauhan

..... Petitioner

VERSUS

Ummardin and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sanjay Vij, Advocate,
for the appellant.

Mr. K.K. Saini, Advocate for
Mr. Dinesh Kumar Jangra, Advocate,
for respondent No.1.

Mr. Shiv Kumar, Advocate for
Mr. Navin Kapur, Advocate,
for respondent No.3.

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 of compensation for injury suffered in an accident that took place on 16.07.2002. The claimant is well-educated, who did Post Graduation and earned diploma from Foreign University. He owned 50 acres of land and was doing consultancy services to the company. He smashed into the dumper that was stationary but the Tribunal found that owner of the stationary dumper to be responsible for parking it in a place, which was dangerous and without adequate warning signs for the user of the road.

He had incurred expenses for treatment and remained admitted

in Apollo Hospital, Delhi, on 16.07.2002 and was discharged on 11.09.2002. All the medical expenses, which had been given to him from the Prime Minister's Fund was deducted from the total expenses incurred by the claimant. The doctor had assessed him to have lost vision of one eye that caused 30% loss of vision and assessed permanent disability to the extent of 70% on account of loss of hearing. The Tribunal provided for ₹ 8,07,000/- for medical expenses, for pain and suffering and the other charges. The said compensation included ₹10,000/- as loss of income during the period of treatment.

3. The claimant was not even an income tax assessee and offered no evidence about any of the consultancy work which he had done. I still take that he was highly qualified and he could have surely put his earning skills to proper use in his life. Considering that he was otherwise even wealthy purpose land, I will make modest estimate for loss of income, which is still less than taxable limit. For the year 2002 the limit was ₹50,000/-, while 100% loss of hearing impairment could constitute an equal percentage of loss of earning capacity under the Workmen Compensation Act, 1923, any lesser percentage of loss of hearing does not account for loss of earning capacity. But considering that he had partial loss of hearing in one ear and loss of vision in another eye, I would believe that his own impairment in earning skill could be estimated to 40%. I will increase provision for pain and sufferings to one lac of rupees on the basis of the evidence that he had fractures on his face which ought to have been painful and his hospitalization for nearly 2 months would have involved him additional expenses for attendant and special diet with ₹ 7000/- and ₹ 25,000/- respectively. The various heads of claimant are tabulated as under:-

Srl. No.				
1	Date of accident		16.07.2002	At 8.30 pm
2	Age:		29 years	
3	Period of hospitalization		3 months	
4	Occupation and income as claimed in petition		4,00,000	
5	Heads of claim		Tribunal	High Court
			Amount (₹)	Amount (₹)
6		Loss of income from to	10,000/-	20,000/-
7		Medical expenses		
8		Medicines	6,75,000/-	6,75,000/-
9		Hospital charges		
10		Attendant charges	7,000/-	25,000/-
11		Special diet		
12		Transportation		
13		Pain and suffering	20,000/-	1,00,000/-
14		Disability (30% of loss of vision and 70% of loss of hearing in one ear)		1,50,000/-
15		Income as assessed by tribunal (a)		1,00,000/-
16		% Loss of earning capacity (b)		40%X 1 Lac
17		Multiplier (c)		17
18		Loss of earning capacity (a x b x c)	95,000/-	6,80,000/-
19		Reduction in life expectancy		
20		Loss of prospect of marriage		
		Total	8,07,000/-	15,00,000/-

3. The amount payable as compensation shall be ₹15,00,000/- and the additional amount over what has already been provided by the Tribunal shall also attract interest @7.5% from the date of petition till the date of payment. The liability shall be on the insurance company.

4. The award passed by the Tribunal stands modified and the appeal is allowed with the above observations.

12.02.2016
Bhumika

(K.KANNAN)
JUDGE