

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

**FAO-4174-2010 (O&M)
in MACT Case No.127 of 2007
Date of decision: 21.04.2016**

Tarsem Lal

...Appellant

Versus

Parkash Dass and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. H.K. Aurora, Advocate,
for the appellant.

Mr. G.S. Rawat, Advocate,
for Mr. IPS Kohli, Advocate,
for respondent No.1.

Mr. Sarabjeet Singh, Advocate,
for respondent No.2.

Mr. Gopal Mittal, Advocate,
for respondent No.3.

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JITENDRA CHAUHAN, J.

The present appeal has been filed by the claimant-appellant, seeking enhancement of the amount of compensation awarded by learned Motor Accidents Claims Tribunal, (Ad hoc),

Fast Track Court, Hoshiarpur, ('the Tribunal', for brevity), vide impugned Award dated 28.08.2009.

Vide order dated 04.02.2014, passed in CM No.18096-CII of 2010, this Court called for a report from learned Tribunal as to whether the disability suffered by the appellant-claimant is temporary or permanent in nature. The operative part of order dated 04.02.2014, reads as under:-

“The Tribunal had relied upon a disability certificate, the disability was stated to be temporary in nature earlier but subsequently on reassessment in January, 2010, the condition of the appellant is stated to be non-progressive. In order to prove the certificate, the appellant will have to examine the concerned doctor and an opportunity to the respondents for cross-examination is also to be given. The application is allowed. Both the parties be given two opportunities each so that the matter is not delayed. The Tribunal would submit its report within three months from 05.03.2014.”

In compliance thereof, report dated 01.04.2014, has

been received. The operative part is to the following effect:-

“I have considered the contentions and have gone through the statement of the witness, come to the conclusion that the disability in the present case is permanent. The disability certificate Ex.PW6/A produced on record proved the disability of the claimant to be permanent and not likely to improve. Moreover, the claimant is present in the court and unable to move properly and finds it difficult to sit in the chair. The statement of the witness with regard to nature of disability, it being of permanent in nature, has not been challenged by the respondents. The factual position has not been disputed by the respondents. Thus, it is case of permanent disability.”

Learned counsel for the appellant contends that in view of the report of learned Tribunal that the disability suffered by the claimant-appellant is permanent in nature, the amount of compensation awarded under the different heads is highly inadequate and deserves to be enhanced.

On the other hand, learned counsel for the respondents contend that just and reasonable compensation has been awarded to the appellant.

I have heard learned counsel for the parties and perused the record.

In the present case, injured-appellant, Tarsem Lal suffered multiple injuries. He was operated upon twice on the fractured legs. He remained hospitalized for thirty days. Learned Tribunal has awarded an amount of Rs.3,000/-, for pain and suffering, which keeping in view the injury suffered is inadequate, and accordingly, enhanced by another amount of Rs.25,000/-. Furthermore, keeping in view the law laid down by this Court in ***Ram Kiran Goyal Vs. Sub Divisional Engineer, Mechanical, 2008(2) R.C.R. (Civil) 103***, i.e. Rs.2,000/- per every one per cent of disability and the fact that the appellant suffered 40% permanent disability, an amount of Rs.80,000/-, is awarded under the head of 'disability'. The amount of compensation under the other heads is just and reasonable.

In view of the above, the claimant-appellant is held entitled to enhanced compensation of Rs.1,05,000/-, over and above the amount already awarded by learned Tribunal, which

shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, the appellant shall also be entitled to the interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

21.04.2016

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**(JITENDRA CHAUHAN)
JUDGE**