

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

FAO No. 4423 of 2012 (O&M)

Date of decision: January 21, 2016

Gulshan

...Appellant

Versus

Indraj @ Inder Pal and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE K. KANNAN**

- 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?**

Present: Mr. RS Mamli, Advocate,  
for the appellant.

Mr. Vimal Kumar Gupta, Advocate,  
for respondent No.2.

**K. KANNAN, J. (Oral)**

1. The appeal is with reference to a claim for enhancement for injuries suffered in an accident to a patient, who had a prolonged treatment requiring hospitalization on two occasions between 15.12.2009 to 26.1.2010 and 24.5.2010 to 9.6.2010. It was a compound fracture of both right legs exposing muscles and bones. The doctor had treated it as a severe crushed injury requiring debridement, dressing and stitching of the wounds. The tribunal has provided for the amount covered through the medical expenses at ₹99,000/- and also allowed for loss of amenities arising out of the permanent disability assessed at the rate of 7% at ₹14,000/-, ₹10,000/- for pain and sufferings, ₹10,000/- for transportation, diet and attendant and ₹15,000/- towards loss of income.

2. The learned counsel for the appellant argues that he was unmarried and, therefore, the Tribunal must have given compensation for loss of prospects of marriage and the Tribunal should have also assessed the loss of earning capacity arising out of the fractures. I cannot find the fracture of a lower limb that has been reduced through surgical intervention would require any assessment of loss of earning capacity, unless there was a specific evidence that it would impair any of the functions which he is required to perform in the work place and subjected to any reduction of loss of income. For hospitalization during the two different spells and an exposure of the bone and muscles on account of the crushed injuries, if at all, the only area where I can make intervention is to enhance the amount on account of pain and suffering from ₹10,000/- to ₹25,000/-. There is no scope for increase under any other head.

2. The award already passed stands modified, providing additional

compensation of ₹15,000/- with interest @ 7.5% from the date of the petition till payment.

3. The insurance company was exonerated and the liability has been cast on respondents No.1 and 2. Respondent No. 1, who is the driver has not been served and since the 2<sup>nd</sup> respondent is always vicariously liable, I direct the right of recovery against the 2<sup>nd</sup> respondent.

4. The impugned awards stands modified accordingly.

**January 21, 2016**  
prem

**(K. KANNAN)**  
**JUDGE**