

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

**FAO No.1255 of 2013
Date of decision : 16.02.2016**

Ramandeep Singh

.....Appellant

Versus

Sucha Singh 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. Vikram Bali, Advocate for appellant.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 20.10.2012 passed by the learned Motor Accidents Claims Tribunal, Panchkula (hereinafter called the Tribunal), vide which the appellant-claimant has been awarded the compensation to the tune of Rs.53,467/- along with interest @ 7.5.% per annum on account of the injuries suffered by him in the motor vehicular accident, which took place on 30.11.2006.

2. The present appeal has been preferred by the appellant-claimant for enhancement of the amount of compensation.

3. Learned counsel for the appellant-claimant contended that the claimant has suffered 25% permanent disability due to the injuries suffered by him in this accident, but the learned Tribunal has awarded only Rs.30,000/- in lump sum on account of the loss of enjoyment and basic amenities on account of the disability suffered by the claimant. He contended that the compensation has not been calculated taking into consideration the income of the deceased and by applying the suitable multiplier.

4. On the other hand, learned counsel for the respondent contended that the claimant was only a student at the time of the accident. So, he was not having any income. The learned Tribunal has rightly awarded the compensation under this head. He further contended that the compensation awarded by the learned Tribunal under all the heads is just and appropriate.

5. I have duly considered the aforesaid contentions.

6. At the time of the accident, the claimant was doing the Diploma in Engineering. No doubt, he being a student was having no income but in order to assess the compensation on account of the permanent disability suffered by him, the learned Tribunal was required to take into consideration his notional income. In view of the fact that the claimant was doing the diploma in engineering. So, the notional income of the claimant is taken to be Rs.3000/- per month i.e. Rs.36,000/- per annum. As per the disability certificate Ex.P1, the claimant has suffered 25% disability. He has a limp and stiffness in the right knee. He has difficulty in squatting and sitting cross-legged. The Hon'ble Apex Court

in case *Raj Kumar Vs. Ajay Kumar and another 2011 ACJ 1* has laid down that future loss of earning cannot be assessed on the basis of percentage of the permanent disability but that has to be assessed on the basis of percentage of functional disability i.e. effect or impact of such permanent disability on his earning capacity. In that case the claimant has suffered 45% permanent disability but the Hon'ble Apex Court has considered the permanent functional disability to the extent of 25% and loss of future earning capacity as 20%. In view of the aforesaid ratio of law laid down by Hon'ble Apex court, the functional disability effecting the future earning capacity of the claimant is taken to be 15%. He was 16 years of age. So, the multiplier of 18 shall be applicable. Thus, the amount of compensation on account of permanent disability suffered by the claimant in the accident comes to Rs.97,200/- (36,000 x 15 x 18/100). So, the amount of compensation under this head is enhanced from Rs.30,000/- to Rs.97,200/- raising the total amount of compensation to Rs.1,20,667/-.

7. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.1,20,667/- from Rs.53,467/- 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 @ 7.5% per annum i.e. 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.

16.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**