

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

FAO No.1341 of 2013

Date of decision : 08.11.2016

Jagmal Singh

.....Appellant

Versus

Shri Dilbag Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Pardeep Sehrawat, Advocate for
Mr. Rajeev Singh, Advocate for appellant.

Ms. Vandana Malhotra, Advocate with
Ms. Monika Jangra, Advocate for respondent No.6.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-claimant against the award dated 04.06.2012, passed by learned Motor Accidents Claims Tribunal, Ambala (hereinafter called the "Tribunal"), vide which he has been awarded compensation to the tune of Rs.2,68,500/- on account of the injuries suffered by him in the motor vehicular accident which took place on 21.12.2010.

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

3. I have heard learned counsel for the parties and gone through the record of the case meticulously.

4. Learned counsel for the appellant-claimant contended that

the claimant was working as dairy helper-cum-cleaner in Milkfed, Milk Plant, Chandigarh. He has suffered 20% disability but no compensation has been awarded to him on account of the disability suffered by him. He further contended that very less amount has been awarded to the claimant for special diet, transportation and attendant charges. A lump sum amount of Rs.3000/- have been awarded for all these heads. Thus, he contended that the just amount of compensation has not been awarded to the appellant-claimant.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the claimant has not suffered any financial loss due to the disability suffered by him. He has admitted in his cross-examination that he is still receiving the full salary and all the service benefits. Thus, he is not entitled for any compensation on account of the future loss of earnings. She further contended that appropriate amount of compensation has been awarded to the claimant under all the relevant heads. So, the impugned award does not call for any interference.

6. I have duly considered the aforesaid contentions.

7. As per the medical evidence, the appellant-claimant has suffered permanent disability to the extent of 20% on account of total hip replacement. No doubt in his cross-examination the appellant-claimant has admitted that he is getting full salary with all benefits and had not suffered any loss in any manner. The age of the claimant at the time of the accident was 54 years. He was working as a helper-cum-cleaner in Milkfed, Milk Plant, Chandigarh and was likely to retire after some years. No doubt

during his service tenure he might not have suffered any financial loss but the 20% permanent disability suffered by him due to total hip replacement still certainly have an adverse effect on his re-employment and any physical work after retirement. The learned Tribunal has totally ignored the permanent disability suffered by the claimant. In the instant case, keeping in view the fact that the claimant has not suffered any financial loss in his service career the computation of the compensation by applying the multiplier may not be required, but at the same time the appellant-claimant deserves some lump sum amount on account of the disability suffered by him. In my opinion, the appellant-claimant shall be entitled to Rs.40,000/- on account of the permanent disability suffered by him.

8. The learned Tribunal has awarded total Rs.3000/- for conveyance charges, attendant and special diet. The amount so awarded by the learned Tribunal is inadequate and is enhanced to Rs.12,000/-.

9. The learned Tribunal has awarded a sum of Rs.10,000/- only on account of loss of amenities and enjoyment of life. As already mentioned the appellant has underwent the total hip replacement, which will certainly have adverse effect on the natural enjoyment of life and amenities. The replacement of the part of body cannot be a complete substitute of the natural part of the body. The hip replacement may affect the physical ability of the person to run, sit for a long time, lift the weight and other activities involving the movement of the hip. So, the sum of Rs.10,000/- awarded by the learned Tribunal is highly inadequate and is enhanced to Rs.50,000/-. In this way, the total amount of compensation payable to the appellant-

claimant comes to Rs.3,57,500/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellant-claimant is enhanced to Rs.3,57,500/- from Rs.2,68,500/- as awarded by the Tribunal. The appellant-claimant shall also be entitled to interest at the rate as awarded by the learned Tribunal from the date of filing the claim petition till realisation. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

08.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No