

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

FAO No.2709 of 2013 (O&M)

Date of decision : 09.11.2016

Mohan Lal

.....Appellant

Versus

Jaswinder Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. R. K. Bagga, Advocate for appellant.

Mr. N.P. Singh, Advocate for
Ms. Vandana Malhotra, Advocate for
respondent No.3-Insurance Company.

DARSHAN SINGH, J.

CM-12283-CII-2013

There is delay of 120 days in filing the present appeal. The appellant has filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 120 days in filing the present appeal is hereby condoned.

Main Appeal

The present appeal has been preferred by the appellant-claimant against the award dated 04.08.2012, passed by learned Motor Accidents

Claims Tribunal, Panchkula (hereinafter called the “Tribunal”), vide which they have been awarded compensation to the tune of ₹51,768/- on account of the injuries suffered by him in the motor vehicular accident which took place on 27.04.2008.

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 learned Tribunal has awarded the inadequate compensation for the injuries suffered by him in the present accident. He contended that the appellant-claimant has suffered the fracture of the right arm and leg and underwent surgery. The rods were inserted therein. He was unable to resume his job at least for a period of six months. No amount has been awarded to the appellant-claimant towards attendant charges though he remained hospitalized for a long period. He further contended that inadequate amount has been awarded for the pain and suffering. Thus, he pleaded that just amount of compensation has not been awarded.

5. On the other hand, learned counsel appearing for respondent-Insurance Company contended that the claimant has not suffered any permanent disability. He has been awarded suitable compensation by the learned Tribunal taking into consideration all the aspects and there is no scope of any further enhancement.

6. I have duly considered the aforesaid contentions.

7. This fact is not disputed that the appellant-claimant has suffered the fracture of right arm and leg. He remained admitted in the PGI, Chandigarh with effect from 27.04.2008 to 14.05.2008 and during this period, he underwent surgery. The rods/plates were inserted in the aforesaid limbs of the appellant-claimant. So, he has suffered the serious injuries in this case. Thus, the amount of hospitalization-cum-pain and suffering is enhanced from ₹12,000/- to ₹15,000/-. The Tribunal has awarded ₹5000/- in lump sum to the claimant on account of special diet and transportation, etc., which seems to be inadequate. Thus, the compensation of ₹5000/- awarded by the learned Tribunal shall be considered only for special diet. In addition to that the appellant-claimant shall be entitled to a sum of ₹5000/- towards transportation charges as he must have to visit the hospital for the follow up treatment. The claimant shall also be entitled to ₹5000/- towards attendant charges.

8. The appellant-claimant has suffered fracture both right arm and leg, so he must not have been able to resume his duties at least for a period of three months. The learned Tribunal has determined the income of the claimant to be ₹3500/- per month. So, he will be entitled to ₹10,500/- as compensation on account of loss of income. In this way, the enhanced amount of compensation payable to the claimant is detailed as under:-

Sr. No.	Heads of compensation	Amount of compensation awarded by the Tribunal (<i>in rupees</i>)	Amount of compensation enhanced by this Court (<i>in rupees</i>)
1.	Medicines and treatment charges	31,268	31,268 (not enhanced)

2.	Hospitalization and pain and suffering	12,000	15,000
3.	Transportation charges	5000	5000 (not enhanced)
4.	Special diet	-	5000
4.	Attendant charges	-	5000
4.	Loss of income	3500	10,500
Total		51,768	71,768

9. Thus, there will be an increase of ₹20,000/- making the total amount of the compensation as ₹71,768/-.

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 ₹71,768/- from ₹51,768/- as awarded by the Tribunal. The appellant-claimant shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation shall remain same as determined by the learned Tribunal in the main award.

09.11.2016
sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned

:

Yes / No

Whether reportable

:

Yes / No