

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

**FAO No.3457 of 2013
Date of decision : 23.02.2016**

Bhimsen

.....Appellant

Versus

Shivdev 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. Balbir Singh Saini, Advocate for appellant.

Mr. Ashish Gupta, Advocate for respondents No.1 & 2.

Mr. Rajbir Singh, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 03.11.2012 passed by learned Motor Accidents Claims Tribunal, Fatehgarh Sahib (hereinafter called the Tribunal), vide which appellant-claimant Bhimsen has been awarded a sum of Rs.2,84,000/- as compensation on account of the injuries suffered by him in the motor vehicle accident which took place on 08.09.2008.

2. The present appeal has been preferred by the appellant-

claimant for enhancement of the amount of compensation.

3. Initiating the arguments, learned counsel for the appellant-claimant contended that no amount has been awarded to the appellant towards loss of amenity and enjoyment of life. He contended that the appellant-claimant has suffered 50% permanent disability. He suffered fracture and was even operated upon, which will certainly affect amenity and enjoyment of life. The separate amount of compensation should have been awarded under this head. To support his contentions, he relied upon case ***Kavita Vs. Deepak & Ors. 2013(1) Civil Court Cases 137.***

4. On the other hand, learned counsel for the respondents contended that the compensation awarded by the learned Tribunal is just and appropriate.

5. I have duly considered the aforesaid contentions.

6. The Hon'ble Supreme Court in case ***Kavita Vs. Deepak & Ors.*** (supra) has laid down that the amount awarded under the head of loss of earning capacity due to disability and inability to lead normal life and enjoy the amenities are distinct and do not overlap. So, the separate compensation is to be awarded on account of loss of enjoyment of normal life and amenities.

7. In the instant case, the learned Tribunal has not awarded any compensation to the appellant-claimant on account of loss of enjoyment of normal life and amenities. The appellant-claimant has suffered serious injuries in this accident. He suffered 50% disability which shows the seriousness of the injuries suffered by him. He was of marriageable age. So, due to the serious injuries suffered in this accident,

his enjoyment of life and amenities will certainly to adversely affect. So, appellant-claimant shall be entitled to a sum of Rs.50,000/- towards loss of amenities and enjoyment of normal life. Thus, the total amount of compensation comes to Rs.3,34,000/- (2,84,000 + 50,000).

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.3,34,000/- from Rs.2,84,000/- 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, 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.

23.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**