

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

FAO No.2310 of 2014 (O&M)

Date of decision : 07.11.2016

Avinash

.....Appellant

Versus

Shri Surinder Sharma and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Aman Sharma, Advocate for appellant.

Mr. Banni Thomas, Advocate
for respondent No.3-Insurance Company.

DARSHAN SINGH, J.

CM-8305-CII-2014

There is delay of 21 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 21 days in filing the present appeal is hereby condoned.

Main Appeal

The present appeal has been preferred by by the appellant-claimant against the award dated 23.05.2013, passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the “Tribunal”)

vide which the appellant-claimant has been awarded compensation to the tune of Rs.70,500/- on account of the injuries suffered by him in the motor vehicular accident, which took place on 14.10.2010.

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

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

4. Initiating the arguments, learned counsel for the appellant-claimant contended that the adequate compensation has not been awarded to the claimant. The appellant-claimant has suffered crush injury right foot and traumatic amputation right 3rd toe. Curcum Freneal L/W around 4th toe and fracture 4th/5th proteanl Phargone. However, the learned Tribunal has awarded only Rs.20,000/- in lump sum towards special diet, transportation, pain and suffering, attendant charges and mental agony etc., which is very less. Thus, he contended that the just and appropriate compensation has not been awarded by the learned Tribunal.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the claimant has not suffered any permanent disability. He has only remained hospitalized for a period of 04 days and 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. The Tribunal has awarded a total sum of Rs.70,500/- *i.e.*

Rs.50,500/- on account of medical expenses and Rs.20,000/- on account of special diet, transportation, pains and suffering, attendant charges, mental agony, etc. The appellant-claimant has underwent operation due to amputation of his toe and that will certainly affect his enjoyment of life and amenities. The amputation of any part of body causes pain and trauma to the victim. So, the appellant-claimant shall be entitled to a sum of Rs.29,500/- in addition to the compensation already granted by the Tribunal, making the total amount of the compensation as Rs.1,00,000/-.

8. 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.1,00,000/- from Rs.70,500/- as awarded by the Tribunal. The 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.

07.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No