

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

FAO-4040-2014 (O&M)
Date of decision: 29.4.2016

Satish Kumar

...Appellant

Versus

Avtar Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.AK Yadav, Advocate for the appellant

Mr.Sharad Aggarwal, Advocate for respondent No.1 and 2

Mr.AS Sidhu, Advocate for respondent No.3

SNEH PRASHAR, J.

By filing the present appeal, appellant Satish Kumar has sought enhancement of the compensation to the tune of Rs.1,93,710/- awarded by learned Motor Accident Claims Tribunal, Rewari (for short 'the Tribunal') vide award dated 30.8.2013 passed in MACT case No.33 of 2011, on account of the injuries suffered by him in a road side accident.

The submissions made by Mr.AK Yadav, Advocate representing the appellant, Mr.Sharad Aggarwal, Advocate for respondents No.1 and 2 and Mr.AS Sidhu, Advocate for respondent No.3 have been heard and record perused.

Learned counsel for the appellant referring to the statement of PW1 Dr.Ashok Saini, Medical Officer, Government Hospital, Rewari argued that the injuries suffered by the appellant resulted in making him

disabled to the extent of 50% on account of restricted movement of left hip, left knee with partial loss of stability with shortening and pain. Having become disabled the appellant has lost chances of promotion. Further, the appellant remained admitted in Birendra Hospital, Rewari from 20.7.2008 to 28.7.2008 but learned Tribunal awarded only a sum of Rs.25,000/- on account of pain and suffering and consolidated amount of Rs.5000/- on account of special diet, attendant charges and transportation, which is extremely less.

Undisputedly, the appellant suffered multiple grievous injuries including fracture femur right side in the motor vehicular accident caused by respondent No.1 driver of offending Truck. PW1 Dr.AK Saini, Medical Officer, GH, Rewari, proved the disability certificate PW1/A and deposed that on examination by the Board of Doctors, the appellant found disabled to the extent of 50% due to restricted movement of left hip, left knee with partial loss of stability with shortening and pain. PW2 Satish Kumar, Record Keeper, Birendra Hospital, Rewari, who produced the medical record of the appellant stated that the appellant remained admitted in his Hospital from 20.7.2008 to 28.7.2008 on account of fracture of femur right side. The appellant was working as a conductor in the Transport Department. No evidence was led by him to show that on account of physical disability, he has been considered unfit for promotion or other pecuniary benefits related to service or that there is reduction in his salary. Even he himself did not utter a word in that regard. As such, apparently the disability has not effected his earning capacity. Learned Tribunal

awarded a sum of Rs.1,00,000/- on account of the disability, which is just and appropriate. Out of the medical expenses incurred by the appellant i.e. Rs.63710/-, the department had reimbursed to him Rs.20,000/- and the remaining was allowed to him by learned Tribunal. Due to the disability, the appellant did not suffer any pecuniary loss, but he has suffered loss of enjoyment of amenities of life and also physical impairment and on that count a sum of Rs.50,000/- is allowed to him.

Further, keeping in view the nature of injuries, disability and the hospitalisation period of the appellant, the amount of Rs.25,000/- awarded on account of pain and suffering is enhanced to Rs.40,000/-. Also a sum of Rs.10,000/- for special diet and attendant charges and Rs.10,000/- for transportation charges is allowed to the appellant.

Accordingly, the enhanced amount of Rs.80,000/- shall be paid to the appellant within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation.

In the above premises, the present appeal is partly allowed and the impugned award is modified as noticed above.

29.4.2016
gsv

(SNEH PRASHAR)
JUDGE