

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

FAO No.4199 of 2014 (O&M)

Date of Order: 30.09.2016

Daya Nand

..Petitioner

Versus

Bhanu Partap and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

**Present: Mr. Rakesh Dhiman, Advocate,
for the appellant.**

**Mr. Rajbir Singh, Advocate, for
Mr. Sanjeev Goyal, Advocate,
for respondent no.3-Insurance Company.**

REKHA MITTAL, J. (Oral)

Daya Nand, the injured victim is in appeal, seeking enhancement of compensation in respect of the injuries sustained by him in a motor vehicle accident that took place on 27.02.2012.

The learned Tribunal awarded an amount of Rs.3,79,764/-, detailed in paragraph 15 of the award.

The sole submission made by counsel for the appellant is that it has been proved on record that the claimant was doing work in a shop on rent. The learned Tribunal assessed his income at Rs.8000/- per month. Dr. Subhash Sindhu, PW7 has proved disability certificate, Ex.P51 and as per medical evidence, the claimant suffered permanent disability to the extent of 10% on his left leg. The Tribunal has held that functional disability would not be

more than 10% and the petitioner can continue to work as a mechanic with his hands. It is argued that as the petitioner cannot lift heavy gen sets due to disability to the extent of 10%, he is entitled to compensation for loss of income by applying a multiplier in the light of judgment of Hon'ble the Supreme Court of India **Raj Kumar v. Ajay Kumar and others, 2011(2) RCR(Civil), 101.**

Counsel for the Insurance Company has supported the award with the submissions that the claimant has rightly been awarded compensation to the tune of Rs.20,000/- qua disability in the light of Division Bench judgment of this Court **Ram Kiran Goyal v. Sub Divisional Engineer Mechanical and others, 2008(2) RCR (Civil), 103.**

I have heard counsel for the parties, perused the award passed by the learned Tribunal.

Undisputedly, there is no challenge to the findings of the Tribunal with regard to the extent of functional disability, suffered by the victim and his income from his avocation as a mechanic. In view of the nature of activity carried on coupled with the functional disability of 10% suffered by the victim, he is awarded an amount of Rs.800x12x17= 1,63,200/- qua disability. After deducting an amount of Rs.20,000/- awarded by the Tribunal in this regard, an additional amount of Rs.1,43,200/- shall be payable to the claimant/appellant. The additional amount shall carry interest @ 7.5% per annum from the date of petition till realisation. However, counsel for the parties are *ad-idem* that in case the insurance company deposits the enhanced compensation within a period of one month, it shall not be

liable to pay interest on the additional amount.

The appeal is allowed in the aforesaid terms.

September 30, 2016
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(Rekha Mittal)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No