

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

FAO No.4214 of 2014 (O&M)

Date of decision : 02.06.2016

Rupesh

.....Appellant

Versus

Karamveer 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. Mohit Rathee, Advocate for
Mr. Balraj Gujjar, Advocate for appellant.

Mr. Punit Jain, Advocate for respondent No.3.

DARSHAN SINGH, J.

CM-12325-CII-2014

There is delay of 17 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 in filing the present petition is hereby allowed.

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

claimant Rupesh against the award dated 05.10.2013 passed by the learned Motor Accidents Claims Tribunal, Bhiwani (hereinafter called the 'Tribunal') vide which the appellant-claimant has been awarded compensation to the tune of Rs.3,10,002/- on account of the injuries received by him in the motor vehicular accident which took place on 09.10.2011.

3. This appeal has been preferred by the appellant-claimant for enhancement of amount of compensation.

4. I have heard learned counsel for the parties and gone through the paper-book carefully.

5. Learned counsel for the appellant-claimant contended that notional income of the deceased has been taken to be on the lower side. The deceased was 10 years of age. So, his notional income should have been taken to be Rs.30,000/- per annum and the compensation on account of disability should have been assessed accordingly. Thus, he contended that inadequate amount of compensation have been awarded by the Tribunal.

6. On the other hand, Mr. Punit Jain, Advocate, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has taken into consideration all the heads to compute the compensation and the compensation already awarded is just and appropriate.

7. Appellant-claimant Rupesh has suffered 70% disability as his left leg was amputated. Learned Tribunal has computed the compensation towards permanent disability by taking into consideration the notional income of the claimant to be Rs.15,000/- per annum, which is on

the lower side. The Hon'ble Apex Court in case ***Kishan Gopal and another Vs. Lala and other 2013(4) RCR (Civil) 276*** has taken the notional income of a child of 10 years of age as Rs.30,000/- per annum. So, the notional income of the appellant-claimant shall be taken to be Rs.30,000/- per annum. In view of the age of the appellant-claimant, the multiplier of 15 shall be applicable. The claim on account of the permanent disability suffered by the appellant-claimant comes to be Rs.3,15,000/- (30,000 x 70 x 15 / 100).

8. The learned Tribunal has also not granted any compensation to the appellant-claimant on account of loss of amenity and enjoyment of life. The appellant-claimant is a child of 10 years of age. His left leg has been amputated. So, he will be entitled to Rs.1,00,000/- on account of loss of amenity and enjoyment of life. The compensation payable to the appellant-claimant is detailed below:-

Sr. No.	Heads of compensation	Amount of compensation in rupees
1.	Medicines and hospital charges	1,01,002/- (as awarded by the Tribunal)
2.	Pain and suffering	20,000/- (as awarded by the Tribunal)
3.	Special diet and attendant charges	10,000/- (as awarded by the Tribunal)
4.	Transportation charges	21,500/- (as awarded by the Tribunal)
5.	Disability	3,15,000/-
6.	Loss of amenities and enjoyment of life	1,00,000/-
Total		5,67,502/-

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby allowed. The amount of compensation is enhanced to Rs.5,67,502/- from Rs.3,10,002/- as awarded by the learned 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 shall remain as determined by the learned Tribunal in the main award.

02.06.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**