

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

FAO No.5376 of 2014 (O&M)

Date of decision : 07.04.2016

Bhupinder Singh

.....Appellant

Versus

Parveen Kumar 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 Jaswal, Advocate for the appellants.
 Mr. K.C. Singla, Advocate for respondents No.1 & 2.
 Mr. Survir Dewan, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 26.02.2014 passed by the learned Motor Accidents Claims Tribunal, Amritsar (hereinafter called the 'Tribunal') vide which the appellant-claimant has been awarded compensation to the tune of Rs.4,00,000/- on account of the injuries suffered by him in the motor vehicular accident, which took place on 05.07.2012.

2. The present appeal has been preferred by the appellant-claimant for enhancement of the amount of compensation.
3. Learned counsel for the appellant-claimant contended that

the appellant has suffered 60% disability due to the injuries suffered by him in this accident but the learned Tribunal has awarded only Rs.35,000/- on account of disability and loss of earnings, which is highly inadequate. He further contended that the claimant was running a shoe shop under the name and style “Brother Shoe Makers” at Main Bazar, Baba Bakala and was earning Rs.20,000/- per month, but no amount has been awarded by the learned Tribunal towards loss of income. Thus, he contended that the learned Tribunal has not awarded the just compensation.

4. On the other hand, learned counsel for respondents contended that Rs.4,00,000/- have been awarded as compensation to the claimant on account of the injuries suffered by him taking into consideration all the heads, so the just amount has been awarded to the claimant.

5. I have duly considered the aforesaid contentions.

6. This fact is not disputed that as per the certificate Ex.P170 and P171, the claimant has suffered 60% mental disability. The learned Tribunal has not awarded the adequate compensation for this disability suffered by the appellant. The learned Tribunal has mentioned that the documents placed on record showed that the claimant can be cured with regular treatment, meaning thereby the disability suffered by the claimant was not permanent in nature and was likely to be cured in future with regular treatment. The learned Tribunal has awarded Rs.35,000/- as compensation on account of disability and loss of earnings. In view of the

percentage of temporary disability suffered by the claimant, the compensation under this head is enhanced from Rs.35,000/- to Rs.90,000/-.

7. The appellant has alleged that he was running the shoe maker shop and was earning Rs.20,000/- per month but the claimant has not placed on record any documentary evidence with respect to his income. The claimant was an able bodied person of 25 years of age, so the income of the claimant can safely be taken to be Rs.5000/- per month. He has suffered head injury and remained hospitalised for a period of about one month. So, he may not have been able to carry on his job at least for a period of two months. So, he will be entitled to a sum of Rs.10,000/- towards loss of income during treatment. In this way, Rs.65,000/- are enhanced towards the compensation payable to the claimant.

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.4,65,000/- from Rs.4,00,000/- as awarded by the Tribunal. The appellant-claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate determined by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

07.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**