

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

FAO-4885-2015 (O&M)

Date of decision: 1.4.2016

Krishan Kumar

...Appellant

Versus

Shakeel Ahmad and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Jainainder Saini, Advocate for the appellant

SNEH PRASHAR, J.

CM15024-25-CII-2015

The applications under Section 5 of the Limitation Act have been filed for condonation of delay of 397 days in re-filing and 30 days in filing the appeal.

In view of the reasons enumerated in the application, the delay in filing the appeal is hereby condoned subject to all just exceptions and the applications stand disposed of accordingly.

FAO-4885-2015 (O&M)

By way of this appeal, appellant Krishan Kumar seeks enhancement of compensation awarded to him by learned Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal') vide award dated 5.10.2013 on account of the injuries suffered by him in a

motor vehicular accident that took place on 23.5.2012.

A petition invoking the provisions of Section 166 of the Motor Vehicle Act 1988 (for short 'Act of 1988') claiming compensation was filed by the appellant against the driver, owner and the insurer (respondents No.1 to 3) of the Truck bearing registration No.HR-55E-9361 (for short 'the offending truck') alleging that the accident, during which he suffered multiple serious injuries, had occurred entirely due to rash and negligent driving of the offending truck by its driver- respondent No.1 Shakeel Ahmad.

The claim petition was contested by the respondents but learned Tribunal considering the evidence led by the parties and the submissions made on their behalf, awarded a sum of Rs.6,39,000/- to the appellant-claimant.

Feeling dissatisfied with the award dated 5.10.2013, the claimant-appellant preferred the instant appeal.

The submissions made by Mr.Jainainder Saini, Advocate have been heard.

It is submitted on behalf of the appellant that as per deposition of Dr.Neerav Jain, Orthopaedic Surgeon, who proved the MLR Ex.P39, the appellant suffered multiple pelvic fracture with amputation of digital phalanx of left ring finger with abdominal injury. He was diagnosed as having ileal infraction, for which laparotomy was

done. He developed septicemia and after he recovered from septicemia, pelvis fracture was fixed with external fixator. After the accident on 25.5.2012, he was admitted in Bone Hospital, Agra and thereafter on 26.5.2012, he was shifted to Sukhda Hospital, Hisar, where he remained admitted upto 29.6.2012. On account of the injuries suffered by him, he sustained disability to the extent of 15%. The appellant was a driver by avocation and having become disabled he is unable to do his job. Submitting that the compensation awarded to the appellant is inadequate, learned counsel prayed for enhancement of the same.

Perusal of the award reflects that as per the disability certificate Ex.P1, the appellant suffered 15% disability in relation to traumatic amputation of left ring finger with deformed gait. As the appellant was a driver by profession, learned Tribunal assessed his income as Rs.6,000/- per month and further added 50% to the actual income computing future prospects. Taking the functional disability effecting the future earning capacity as 15%, as the deceased was a driver by profession, and considering the law laid down by the Hon'ble Supreme Court in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, learned Tribunal awarded a sum of Rs.2,43,000/- to the appellant on account of permanent disability, which calls for no intervention.

The appellant produced medical bills Ex.P2 to P8, Ex.P14 to Ex.P38, Ex.P40 to Ex.P166 and Ex.P170 to Ex.P179

amounting to Rs.2,82,000/-, which have been allowed by learned Tribunal. Apart from it, a sum of Rs.50,000/-was awarded for pain and suffering,Rs.18,000/- for loss of income for three months and Rs.45,800/- was awarded under the head of special diet, attendant charges and conveyance charges, which are just and adequate.

The appellant was adequately compensated on all counts, therefore, there is no merit in the present appeal. Accordingly, the instant appeal is hereby dismissed.

1.4.2016
gsv

(SNEH PRASHAR)
JUDGE