

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

FAO No.8165 of 2014

Date of decision : 17.03.2016

Paramanand

.....Appellant

Versus

Pardeep 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. Pulkit Dagar, Advocate for
 Mr. Rajesh Lamba, Advocate for appellant.

 Mr. Vipul Sharma, Advocate for
 Mr. Paul S. Saini, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 02.05.2014 passed by learned Motor Accidents Claims Tribunal, Gurgaon (hereinafter called the 'Tribunal') vide which the appellant-claimant has been awarded the compensation to the tune of Rs.6,46,276/- on account of the injuries suffered by him in the motor vehicular accident, which took place on 09.08.2012.

2. The present appeal has been filed for enhancement of the amount of compensation.

3. Learned counsel for the appellant contended that appellant has suffered 60% disability as a result of the injuries suffered in this accident but the learned Tribunal has awarded only Rs.60,000/- on account of the disability. He further contended that no amount has been awarded to the claimant on account of the transportation, attendant charges and special diet.

4. Learned counsel for the respondent contended that the learned Tribunal has awarded Rs.6,46,276/- as compensation on account of the injuries suffered by him in this accident which is quite just compensation. He has been awarded appropriate compensation on account of disability.

5. I have duly considered the aforesaid contentions.

6. The claimant was 25 years of age at the time of the accident. It is alleged that he was running electric equipment shop and was earning Rs.30,000/- per month but the appellant has not adduced any cogent evidence to establish his profession and income but even if he is considered to be casual labourer his income could be easily taken Rs.5000/- per month i.e. Rs.60,000/- per annum. As per the disability certificate Ex.P42, which has been proved by PW9 Dr. Virender Baswana, Medical Officer, General Hospital Gurgaon, the claimant has suffered 60% disability due to fracture of right leg. The Hon'ble Apex Court in case ***Raj Kumar Vs. Ajay Kumar and another 2011 ACJ 1***, held that the entire percentage of the disability cannot be taken into consideration to determine the future loss of income. Only the functional

disability, which has impact on the earning capacity of the victim, can be taken into consideration. The disability suffered by the appellant-claimant is only qua a particular limb. Thus, the functional disability which will adversely affect the future income of the appellant-claimant is taken to be 40%. The multiplier of 18 shall be applicable as per the age of the claimant. The amount of compensation payable to the claimant on account of future loss of income due to permanent disability comes to Rs.4,32,000/- [60,000 x 40 (functional disability) x 18 (multiplier) /100]. So, the amount of compensation on account of permanent disability payable to the claimant is enhanced from Rs.60,000/- to Rs.4,32,000. The learned Tribunal has not awarded any amount of compensation to the claimant towards transportation and attendant charges as well as to special diet. He will be entitled a total sum of Rs.10,000/- under this heads. In this way, the total amount of compensation comes to Rs.10,28,276/-.

7. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.10,28,276/- from Rs.6,46,276/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate of interest as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

17.03.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**