

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-7575-2015

Decided on : May 09, 2016

DHARAMBIR SINGH

....Appellant

VERSUS

SURESH KUMAR AND OTHERS

....Respondent

CORAM : HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner.

K. KANNAN, J (ORAL)

1. The appeal is against the Award of compensation for injury sustained in a motor accident. He had fracture in frontal etamoidal haemosinus and was reported to be remained on leave for a month. The Tribunal had provided for pain & suffering, hospitalization, loss of amenities of Rs.80,000/- and also added a modest sum of Rs.5,000/- for attendant charges and Rs.5,000/- for special diet and all the medical expenses aggregating to Rs.1,03,000/-.

2. The counsel says that the Tribunal has not awarded the loss of wages for Rs.35,294/-, the salary that was drawn by him per month. He was said to be a Project Manager in private company and the Tribunal reasoned that there was nothing to show that he was not paid salary during the period of his treatment. The best evidence possible was to examine the employer that the salary was not paid during his leave period or to file his bank

statement. The monthly remittance into bank account would show that there was no credit entered for the month when he was under treatment. The best evidence was not adduced and the Tribunal has justified in rejecting the plea for loss of salary.

3. I don't think that the assessment of Rs.80,000/- was anyways less I will provide for Rs.25,000/- as going towards pain and suffering. There is no permanent disability for providing any other sum. Even if I am prepared to observe that there is a loss of one month salary, for Rs.32,294/-, there is still about Rs.30,000/-, unaccounted out of remaining Rs.55,000/- (Rs.80,000/- - Rs.25,000/-) while it assessed Rs.1,93,000/- as compensation.

4. The Tribunal after assessing the amount of Rs.1,93,000/- made a partial abatement to 25% for the contributory negligence attributed to the claimant. This was again justifiable for the claimant dashed against the vehicle from behind going ahead him. Even modicum of careful driving on his part would have spared him from the accident. The Tribunal was again very liberal in assessing low percentage of the negligence to the conduct of the claimant.

5. I will find no scope for interference.

6. Appeal is dismissed.

May 09, 2016
Rajneesh

(K. KANNAN)
JUDGE