

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

FAO No.9601 of 2014 (O&M)

Date of decision : 01.09.2016

Sikender Khan alias Subedar

.....Appellant

Versus

Saurabh Chauhan and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Dr. Naresh Kaushik, Advocate for appellant.

DARSHAN SINGH, J.

CM-26620-CII-2014

There is delay of 20 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 of 20 days in filing the present appeal is hereby allowed.

FAO No.9601 of 2014

2. The present appeal has been preferred by the appellant-claimant against the award dated 01.05.2014 passed by learned Motor Accidents Claims Tribunal, Panchkula (hereinafter called the "Tribunal"), vide which he has been awarded compensation to the tune of ₹96,000/- on account of the injuries suffered by him in the motor vehicular accident

which took place on 24.11.2009.

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

4. I have heard learned counsel for the appellant and gone through the paper-book meticulously.

5. Learned counsel for the appellant-claimant contended that only ₹5000/- have been awarded on account of pain and suffering, which is a meagre amount. The claimant has remained hospitalised for number of days and has suffered the serious injuries. He has also not been awarded compensation under other heads like special diet and transportation charges, etc. Thus, he contended that just amount of compensation has not been awarded.

6. I have duly considered the aforesaid contentions.

7. It is settled principle of law that the victim of motor vehicular accident deserves the just compensation. It is not a mean to make the claimant rich by awarding the compensation for which he is not actually entitled.

8. In the instant case the learned Tribunal has awarded ₹78,000/- on account of partial permanent disability of 15% suffered by the claimant. The learned Tribunal has determined the income of the deceased to be ₹40,000/- per annum and the entire percentage of the disability i.e. 15% has been taken into consideration to determine the loss of future earning capacity, which is against the ratio of law laid down by Hon'ble Apex Court in case ***Raj Kumar Vs. Ajay Kumar and another 2011 ACJ 1.***

Moreover, in the instant case the claimant has only suffered the partial permanent disability and not the complete permanent disability. So, the learned Tribunal has already granted excess compensation on account of loss of earning capacity. Thus, no separate amount of compensation is admissible to the claimant for special diet, transportation and attendant charges, etc. The compensation of ₹5000/- awarded on account of pain and suffering also does not call for any enhancement.

9. Thus, keeping in view my aforesaid discussion, the appellant is not entitled for any enhancement of the amount of compensation.

10. Therefore, the appeal filed by the appellant-claimant being without any merit, is hereby dismissed.

01.09.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No