

FAO No.9706 of 2014

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In the High Court of Punjab and Haryana at Chandigarh

FAO No.9706 of 2014

Date of Decision: July 11, 2016

Rakesh Kumar Handa

---Appellant

vs.

Amir Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Sunil K.Dixit, Advocate
for the appellant

Mr. Neeraj Khanna, Advocate
for respondent No. 3/ Insurance Company

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The claimant is in appeal seeking enhancement of compensation in respect of injuries sustained by him in a motor vehicular accident due to rash and negligent driving of Tata truck bearing No. HR-37C-9835. The Motor Accident claims Tribunal, Panchkula (in short “the Tribunal”) awarded compensation to the tune of Rs. 2,00,000/- tabulated in para 29 of the award.

The sole submission made by counsel for the appellant is that the appellant suffered permanent disability of 35% qua one limb of upper body as per disability certificate Ex. P3 and the learned Tribunal in para 27 of the award has held that the aforesaid disability will impact over all earning capacity of the claimant to the extent of 15% only in terms of whole body and it will lead to some loss of earning capacity but while assessing future loss of income did not apply the multiplier after assessing income of the appellant and loss to the extent of 15%. It is argued with vehemence that future loss of income assessed by the Tribunal requires enhancement by applying multiplier method.

Counsel for respondent no. 3 (National Insurance Company

Limited) has submitted that as there is no medical opinion by a competent medical board that the appellant suffered functional disability to any extent, no fault can be found in assessment of compensation for loss of income in future. It is further argued that as there would be negligible loss of income, in view of nature of disability suffered by the appellant, compensation assessed for loss of income is liable to be affirmed.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

Be that as it may, there is no dispute that the appellant has suffered disability to the extent of 35% of his left arm. There is no evidence on record by an expert body that the said disability would amount to loss to the extent of 15% in terms of whole body. Counsel for the appellant has not referred to any medical text or a precedent that can guide the Tribunal or courts for assessing functional disability on the basis of permanent disability to a particular limb. In this view of the matter, the appellant cannot be heard to say that he is entitled to loss of income by adopting a multiplier method. However, as the appellant has suffered permanent disability to the extent of 35% of his upper limb, he shall be entitled to compensation of Rs. 2000/-

for every 1% disability and the same comes to Rs. 70,000/-. In this context, reference can be made to a Division Bench judgment of this Court ***Ram Kiran Goyal vs. Sub Divisional Engineer, Mechanical and others 2008(2) RCR (Civil) 103.***

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed. The compensation is enhanced to the tune of Rs. 40,000/-.The enhanced compensation shall be payable to the claimant alongwith interest @ 7.5% per annum from the date of filing of the petition till realization of the amount. No order as to costs.

(Rekha Mittal)
Judge

July 11, 2016
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