

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

FAO-8216-2015 (O&M)

Date of decision: 4.3.2016

Balwinder Singh

...Appellant

Versus

Sucha Singh and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Tarun Singla, Advocate for the appellant

SNEH PRASHAR, J.

CM-25922-CII-2015

The present application is for condonation of delay of 138 days in refiling the appeal.

For the reasons enumerated in the application, the same is allowed. Delay of 138 days in refiling the appeal is hereby condoned subject to all just exceptions.

FAO-8216-2015

The present appeal has been filed by the claimant-appellant seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal'), vide award dated 2.12.2014 on account of the injuries sustained by him.

On 19.9.2012 appellant Balwinder Singh was travelling as a pillion rider on scooter bearing registration No.PB10-BF 6625 driven by

his brother Harpreet Singh when near Partap Chowk Ludhiana truck bearing registration No.MP-07-HB-1848 (for short 'the offending truck') being driven rashly and negligently hit the scooter from behind. Due to the impact, they both fell down and suffered multiple injuries. The appellant was admitted in Christian Medical College and Hospital, Ludhiana. A First Information Report No.152 of 2012 under Sections 279, 337, 338 and 427 of the Indian Penal Code was registered against respondent No.1 (driver of the offending truck) at Police Station Shimlapuri, Ludhiana.

Appellant filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') claiming compensation to the tune of Rs.20 lacs before learned Tribunal, which was partly allowed and an amount of Rs.9,95,000/- was awarded as compensation.

Being dissatisfied with the compensation awarded by learned Tribunal, the appellant filed the present appeal.

The submissions made by Mr.Tarun Singla, Advocate has been heard.

It is submitted on behalf of the appellant that he suffered 10% permanent disability on account of amputation of right leg due to that he has become unable to perform his routine work. Despite the fact that he was a skilled worker with Axcel checknut motor parts and was earning Rs.20,000/- per month, learned Tribunal erroneously assessed his income as Rs.8000/- per month. He was a young man of 24 years old and in future his salary would have increased many fold, but this facts was not considered by learned Tribunal and nothing has been awarded.

Learned counsel further submitted that no amount has been allowed on account of attendant charges, special diet and also on account of loss of salary during hospitalisation period. He cites **Sanjay Verma vs. Haryana Roadways, 2014(3) SCC 210.**

It is not a matter in issue that the appellant suffered injuries during a motor vehicular accident caused by respondent No.1- driver of the offending vehicle. No doubt, as mentioned in the award, the appellant was a skilled worker as he was doing work of Axcel checknut motor parts but there is no evidence to prove that he used to earn Rs.20,000/- per month. The challans and voucher Ex.PW2-1 to PW2/66 proved by PW2 Gurjit Singh with regard to work done by the appellant were discarded by learned Tribunal because as per the bill book there is no bill issue to any other person as bills are in sequence. Thus, considering him as skilled worker, learned Tribunal has rightly taken his income as Rs.8000/- per month. As per the disability certificate Ex.PW4/1, the appellant suffered 10% permanent disability on account of amputation of his right leg. Despite that, learned Tribunal while computing future loss of income of the appellant took the disability to the extent of 20% and awarded a sum of Rs.3,10,000/- on this count.

Apart from it, the learned Tribunal awarded a sum of Rs.One lac for future treatment and Rs.75,000/- for pain and suffering to the appellant. Further the bills produced and proved by the appellant before learned Tribunal for amounting to Rs.5,09,000/- have already been allowed. Needless to say that the amount awarded under all the heads appears appropriate and adequate.

The facts of the cited case are distinguishable from the case in hand. In **Sanjay Verma's case (supra)**, the appellant had suffered 100% disability on account of paraplegia but here the appellant suffered on 10% disability on account of amputation of leg.

In the above premise, the award passed by learned Tribunal warrants no intervention and the present appeal being devoid of merit is dismissed.

4.3.2016
gsv

(SNEH PRASHAR)
JUDGE