

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

**FAO No.1389 of 1993**

**Date of decision: 16.05.2017**

**Raj Kumar Kalra and another**

**..Appellants**

**Versus**

**Balwinder Singh and others**

**..Respondents**

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. R.C.Gupta, Advocate,  
for the appellants.

Mr. M.S.Naryal, Addl.A.G.,Punjab.

**ANITA CHAUDHRY, J.**

This appeal has been filed by Raj Kumar, claimant no.1, seeking enhancement in the award passed by the Motor Accident Claims Tribunal, Ferozepur.

The record of this file had been burnt in the fire incident. Only copy of the grounds of appeal and copy of the award could be reconstructed. The counsel for the appellants has supplied photocopy of the paper book. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever material is available on the record.

The claimant was 31 years old when he met with an accident on 13.10.1990. He remained admitted in hospital for 4½ months. He suffered injury on the right shoulder. The plaintiff had claimed that he was working as Area Manager and was getting salary of Rs.3800/- plus travelling allowances. He also claimed that he had spent Rs.15000/- on his treatment

and had become permanently disfigured/disabled.

The Tribunal without any disability certificate, awarded the following compensation:-

Raj Kumar Kalra applicant no.1

|                      |             |
|----------------------|-------------|
| For medical expenses | Rs.15000-00 |
|----------------------|-------------|

|                             |             |
|-----------------------------|-------------|
| For pain and mental torture | Rs. 5000-00 |
|-----------------------------|-------------|

|                              |             |
|------------------------------|-------------|
| For permanent disability and | Rs.30000-00 |
|------------------------------|-------------|

disfigurement.

Counsel for the appellants submits that the amount allowed for the disability was on the lower side and there was a fracture on the shoulder and it causes pain and would remain for the rest of his life and no amount had been allowed for loss of income, for the attendant, for transportation and for special diet. Counsel further submits that the respondent failed to contest the petition and the statement of the claimant had gone un rebutted.

The bus which had caused the accident was owned by the Punjab State. Notice was given to them by the Tribunal but no one appeared for them and they were proceeded ex-parte.

The claimant had pleaded that he was earning Rs.3800/- per month and he had sustained a fracture on the shoulder and there was disfigurement and disability but I find that there is no reference as to any disability certificate. No medical officer or Member of the Board was examined to prove the disability. Even today the appellant has not been able to place on record any disability certificate. The Tribunal had awarded Rs.30000/- under the head of disability to which he was not entitled to. However, I find that there are several heads upon which the Tribunal failed to award any compensation and I would award the following:-

|    |                         |          |
|----|-------------------------|----------|
| 1  | Medical Expenses        | 15000-00 |
| 2  | Loss of Salary (3800x4) | 15200-00 |
| 3  | Pain and suffering      | 10000-00 |
| 4  | Special diet            | 5000-00  |
|    | Attendant charges       |          |
| 5  | 900(minimum wages)x4    | 3600-00  |
| 6  | Transportation charges  | 3000-00  |
| 7. | Physiotherapy           | 10000-00 |

The total of the above comes to Rs.61800/-.

As a result, the appeal is partly allowed and the award is accordingly modified. The Tribunal had awarded Rs.50000/-. The appellant would be entitled to Rs.61800-50000=11800/- with interest @ 6% from September, 1993.

May 16, 2017  
nt

(ANITA CHAUDHRY)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No