

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

**FAO No.1819 of 1999 (O&M)
Date of Decision: May 01, 2017**

Dharamvir

..Appellant(s)

Versus

Hoshiar Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellant.

Mr. Parmod Goyal, Advocate and
Mr. Abhishek Goyal, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 04.03.1999 passed by the Motor Accident Claims Tribunal, Karnal.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award could be reconstructed. The appellant has placed on record the grounds of appeal, copy of award and the statement of witnesses. The counsels appearing for the parties agree that the matter can be decided on the basis of whatever is available on the record.

An accident took place on 13.07.1997 in which Dharamvir suffered permanent disability of 75%. The injury was on the head which had left him disabled. He could not move nor speak or sit but was only capable of understanding what was spoken. He was 45 years old and was stated to be a plumber. He remained in the hospital for 67 days. The Tribunal noted that there was no evidence to show had he was earning Rs.3,000/- per month. The record showed that he had earned Rs.1,000/- per month in the months of September 1996 and December 1996 and had worked as a daily wager with Arpna Hospital, Madhuban. His income was taken as Rs.1,500/- per month. The Tribunal considered the loss of income of Rs.1,000/- per month and assessed the amount for the disability at Rs.1,20,000/-. A sum of Rs. 10,000/- was allowed for pain and suffering, Rs. 13,000/- were added for the actual expenses made for the purchase of medicines etc. and an award of Rs. 1,43,000/- was passed.

The submission on behalf of the appellant is that though the title does not show that the claim petition had been filed through the wife but towards the end of the petition there is a note that the claim petition was filed through the wife and though the thumb impression of the claimant were also affixed, the wife had also signed and the claimant could not appear in the witness box. It was urged that the amount allowed was on the lower side and the injury had left him confined to bed. It was urged that no amount had been allowed for loss of income for 67 days and an addition should have been made for the attendant and for

physiotherapy and loss of amenities for the rest of his life and in this condition it would be a case of 100% disability as he is unable to attend to himself.

The accident had left the claimant crippled for life. The doctors had given the disability at 75% but the claimant is unable to move, speak or sit on his own. The claim petition was filed through the wife. A note was appended towards end of the petition. The disability certificate Ex.P-3 had been proved on the record.

The Tribunal had taken the income to be Rs.1,500/- per month. The minimum wages in Haryana in the year 1997 for unskilled labourer were Rs.1,598/- per month but since the claimant was a plumber, therefore, his income can be taken to be that of a semi-skilled labourer and the minimum wages were Rs.1659.47/- per month which can be rounded off to Rs.1,660/- per month. The claimant is also entitled to an increase towards future prospects in view of the law laid down in ***V. Mekala Vs. M. Malathi and another 2014(2) RCR (Civil) 880***. Making an addition of 30%, an increase of Rs. 498/- will have to be made and the income would be Rs.2,158/- per month and 75% of this amount would be Rs.1,618/- which can be rounded off to Rs.1,620/- and the compensation towards the disability would be $1620 \times 12 \times 14 = \text{Rs.}2,72,160/-$. Rs.1,00,000/- is awarded for loss of amenities, Rs.50,000/- is awarded for pain and suffering, Rs.1,00,000/- is awarded for attendant charges, Rs.20,000/- is awarded for Physiotherapy, Rs.4,980/- for loss of income for 3 months and Rs.25,000/- is allowed for cost of litigation as per the

principle laid down in ***Balram Parsad V. Shah 2013(4) RCR (Civil 946.***

The total of the above comes to Rs.5,72,140/-. The Tribunal had awarded Rs.1,43,000/-, which would be deducted and the remaining amount of Rs.4,29,140/- would be payable by the respondents with interest @ 6% from July, 1999.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

May 01, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No