

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

**FAO No.1845 of 1999 (O&M)
Date of Decision: March 09, 2017**

Ram Chander

..Appellant(s)

Versus

Raghubir Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jaswant Jain, Advocate
for the applicant-appellant.

Mr. Lalit Garg, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

CM No.3073-CII-2016

For the reasons set out in the application, same is allowed as prayed for and paper book of the appeal attached with the application is ordered to be reconstructed for hearing of the appeal. The main appeal is also taken up on Board today itself for hearing.

FAO No.1845 of 1999

This is an appeal by the claimant seeking enhancement in the award dated 11.03.1999, passed by the Motor Accidents Claims Tribunal, Hisar.

Ram Chander aged 50 years met with an accident on 16.01.1997. He suffered fracture of the tibia and fibula of the left leg and fracture proximal phalanges of 4th and 5th finger. His disability was

assessed at 40% on account of shortening of the leg by 1%. He remained in the hospital twice initially for a period of 11 days and then for a month. His income was taken to be Rs.1,600/- per month. He had stated that he used to sell cattle but could not lead any evidence and the following compensation was awarded:-

1. Compensation on account of treatment	Rs.10,000/-
2. Compensation on account of disability	Rs.40,000/-
3. Compensation on account of pain and suffering, special diet, transportation and other related heads.	Rs.20,000/-
4. Compensation on account of loss of income.	Rs.5,000/-

Total

Rs.75,000/-

The submission on behalf of the appellant is that less amount has been awarded and no amount had been allowed on certain heads.

The counsel had also submitted that this appeal had been decided in 2010 and he had also sent information to the counsel who was representing the claimant before the Court below but unfortunately he died and they have not been able to get the copy of the award and they had moved an application for reconstruction of the paper book and re-decision of the appeal and the Co-ordinate Bench had ordered the re-hearing on 26.05.2016.

The counsel for the appellant had also submitted that they were entitled to interest right from the filing of the appeal since the amount had not been paid. It was also urged that the claimant had stated that he had spent Rs.1.5 lac on the treatment but the Tribunal had only allowed Rs.10,000/-.

The Medical Officer had found disability to the extent of 40%. Even if it is taken as the functional disability, the compensation for the disability would be $\text{Rs.640} \times 12 \times 11 = \text{Rs.84,480/-}$ (rounded off to Rs.85,000/-). Taking all aspects and the injury into consideration, the following amount should be awarded as compensation:-

Compensation for the disability	-	Rs.85,000/-
Actual amount spent on treatment	-	Rs.10,000/-
Compensation for pain and suffering	-	Rs.20,000/-
Compensation on account of loss of income - (1600 x 3 month)		Rs.4800/-
Compensation on account of special diet	-	Rs.5000/-
Total	=	<u>Rs.1,24,800/-</u>

The Tribunal had allowed Rs.75,000/-, which would be deducted and the appellant is allowed the above amount with interest at the rate of 6% from 1999 to 2010 and interest @ 3% from 2010 till it is paid as the appellant took more than six years to file the application. The entire burden cannot be placed upon the insurance company.

The appeal is partly allowed.

(ANITA CHAUDHRY)

March 09, 2017
sunil

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No