

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

**FAO No.700 of 2000 (O&M)
Date of Decision: April 06, 2017**

Kundan Singh

..Appellant(s)

Versus

Sucha Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate
for the appellant.

Mr. Ravinder Arora, Advocate &
Mr. Neeraj Gupta, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 02.12.1999, passed by the Motor Accidents Claims Tribunal, Ambala.

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 re-constructed. None of the parties could give any material for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

Kundan Singh met with an accident on 31.10.1998. He was 26 years old and was stated to be dealing in the sale of milk. He suffered a disability of 25%. It was pleaded that he was earning Rs.10,000/- per month but failed to lead any evidence. The award of the Tribunal shows that the income was assessed at Rs.4,500/- per month but while calculating the amount for the disability, which was 25%, Rs.400/- was taken to be 25% of the monthly income to calculate the loss towards disability, Rs.76,800/- (400 x 12 x 16).

The Tribunal referred to the statement made by the doctor where he stated that he had charged Rs.20,000/- but the Tribunal awarded a sum of Rs.50,000/- for the treatment, cost of medicines, special diet and transportation and Rs.17,000/- was allowed for pain and suffering and an award of Rs.1,43,800/- was allowed.

The submission on behalf of the appellant is that if the income was taken as Rs.4,500/- per month then 25% of that amount should have been taken to calculate the quantum for the disability. It was urged that since there was a fracture and the claimant was unable to move he required the services of an attendant and would have undergone physiotherapy sessions and was entitled to a higher amount. It was urged that the amount allowed for pain and suffering is on the lower side.

The submission on the other hand was that there was a typing error in the award and the minimum wages in the year 2007-2008 were around Rs.1500-1600/- per month and it could not be Rs.4,500/- per month in 1998 and Rs.400/- was taken as 25% of the

monthly income, therefore, the Tribunal was considering the income to be Rs.1,600/- per month and that part can be ignored. It was conceded that the multiplier considering the age should have been 17. It was urged that the Tribunal had already awarded Rs.30,000/- extra when the Medical Officer by approximation had given the figure to be Rs.20,000/- and no change should be made in the awarded amount.

The minimum wages in 1998 were around Rs.1500 – 1600/- per month. It appears that there was a typing error and if Rs.400/- was taken as 25% of the monthly income then the income could not have been more than Rs.1,600/- per month. The minimum wages in the year 1998 were hovering around Rs.1500 – 1600/- and it is a typing error in the award. Taking the disability to be 25%, if the amount is calculated, it would come to $\text{Rs.}400 \times 12 \times 17 = \text{Rs.}81,600/-$. The Tribunal had failed to award any amount on a number of heads, which I propose to add and the total compensation payable would be as under:-

Disability	=	Rs.81,600/-
Attendant Charges (Rs.1000 x 4)	=	Rs.4,000/-
Transportation Charges	=	Rs.5,000/-
Physiotherapy	=	Rs.4,000/-
Pain and Suffering	=	Rs.20,000/- more
Amount spent on treatment etc.	=	Rs.50,000/-
Total	=	Rs.1,64,600/-

The Tribunal had awarded a sum of Rs.1,43,800/-, which would be deducted and the remaining amount would be paid to the

appellant with interest @ 6% per annum from the date of filing of appeal i.e. January, 2000.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

April 06, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No