IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3895 of 2001 (O&M)
Date of Decision: November 17, 2017

Ramesh Chand ...Appellant

Versus

Bharpoor Singh and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Rakesh Lathwal, Advocate for the appellant.

Mr.Pardeep Goyal, Advocate for respondent – Insurance Company.

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HARINDER SINGH SIDHU, J.

This is an appeal for enhancement of compensation awarded to the appellant on account of an accident involving vehicle No.HR-47-2390 (offending vehicle) and the scooter No.DL-8SA-3457, which was being driven by the appellant.

Briefly, the facts, as pleaded by the appellant, are that on 19.09.1998, the appellant was coming to his house on his scooter. At about 11.50 am, when he reached Siraspur Chowk on GT Road in the area of Police Station Samalpur Badli, the offending vehicle, which was being driven by respondent No.1 in a rash and negligent manner and at a high speed, hit the scooter of the appellant with the right side of the truck. The appellant sustained multiple injuries, due to which he lost his right eye and suffered a fracture of his right leg.

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The Learned Tribunal on the basis of evidence concluded that the accident had taken place due to negligent driving of the offending vehicle by respondent No.1. In support of his claim for compensation, the appellant examined Dr.S.S.Buggal (PW1), who stated that the appellant was examined by the Medical Board at Civil Hospital, Sonepat and he had 100% disability on account of shortening of his right leg by 1.5 centimetre. The appellant appearing as PW2 stated that he was serving in the Delhi Fire Services and remained on leave due to the accident w.e.f. 29.09.1998 to 05.10.1999 (as per certificate Ex.P3). He also proved his salary certificate Ex.P4, which showed that he was earning Rs.10,153/- per month. He also produced medical bills regarding his treatment (Ex.PA). He further argued that on account of the injuries sustained by him , his chances of promotion had been adversely affected, thereby, leading to substantial loss in his future earnings.

The Learned Tribunal awarded him compensation of a sum of Rs.1,00,000/- for the loss of income during the period of leave. A sum of Rs.2,61,000/- was awarded for medical treatment. Rs.1,49,000/- was awarded for permanent disability, pain and suffering and trauma. Total compensation of Rs.5,10,000/- was awarded.

Learned counsel for the appellant mainly argued that the learned Tribunal has erred in not awarding any compensation for loss of future earnings and that the amount awarded for permanent disability and pain and sufferings and trauma is also on the lower side.

Vide order dated 06.10.2017, learned counsel for the appellant was granted time to produce some material to substantiate his assertions that the chances of promotion of the appellant were adversely affected on

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account of the disability suffered by him. Ld. Counsel has produced a certificate dated 10.10.2017 issued by the Head of Office of National Capital Territory of Delhi, Delhi Fire Service, Moti Nagar Division, New Delhi which is taken on record as Mark-A. In this certificate, it has been certified that the appellant is posted in Delhi Fire Service in Moti Nagar Division. He met with an accident on 19.09.1998. Because of the disability, he was not sent for the officer's course in the year 2005. Because of the disability, he was not given next promotion. As a result of denial of promotion, he has been suffering loss of Rs.6000/- per month from the year 2006.

This certificate having been issued by the competent officer of the National Capital Territory of Delhi, there is no reason to doubt the contents thereof and assess the compensation for loss of future earnings relying on the same.

As per the claim petition, the appellant was aged about 38 years when the claim petition was filed in the year 1999. The certificate Mark-A states that the appellant has been suffering loss of Rs.6000/- per month from the year 2006. In 2006, his age would have been about 45 years. Hence his loss of future earnings would have to be assessed from the age of 45 years.

Accordingly, applying the multiplier of 14, the loss of future earnings is assessed at Rs.10,08,000/- (6000x12x14). The Tribunal had awarded composite compensation of Rs.1,49,000/- for permanent disability, pain and sufferings and trauma. The appellant has now been awarded compensation separately for loss of future income on account of disability. In view of the injuries sustained by him, instead of Rs.1,49,000/- awarded for for permanent disability, pain and sufferings and trauma, he is now

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awarded compensation of Rs.2,00,000/- for pain and suffering and trauma.

In all, the appellant is held entitled to total compensation of Rs.15,69,000/- (100000+261000+200000+1008000).

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the appellant is held entitled to total compensation of Rs.15,69,000/-, that is, Rs.10,59,000/- (1569000-510000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

November 17, 2017 **(HARINDER SINGH SIDHU)**
gian **JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No

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