IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.296 of 2002
Date of Decision.19.07.2017

Ujagar Singh ....Appellant

Vs

Gurmit Singh and others ....Respondents

Present: Mr. Sonal Datta, Advocate
for the appellant.

Mr. R.C. Kapoor, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for injuries suffered by the claimant in a motor accident. He boarded the offending bus bearing registration No.PAB-8654 from bus stand Lathuri and was sitting on the roof-top of the bus. The bus was being driven by one Gurmit Singh rashly and negligently and in the process of overtaking a vehicle, he took the bus on kutcha portion of the road as a result of which the branches of the trees hanging towards road hit against the claimant, resulting into serious injuries on his head and other parts of the body. He was rushed to the hospital at Ludhiana from where he was referred to PGI, Chandigarh after giving first aid. He sustained injuries on head and limbs of upper part and the disability was assessed at 50% permanent in nature. The Tribunal while assessing the compensation awarded a sum of ₹41,684/- for medical bills, ₹30,000/- for future loss of income, ₹10,000/- for pain and suffering and ₹5000/- for special diet and transportation and ₹500/- for doctor's fee.

Learned counsel for the appellant contended that the Tribunal while assessing the future loss of income applied a multiplier of 5 for a person aged 60 years when as per the ratio decidendi culled out in the judgment rendered by Hon'ble Supreme Court in ***Sarla Verma Vs. DTC 2009(6) SCC 121***, it should have been 9. Moreover, the amount assessed for pain and suffering, special diet, attendant charges and transportation are on lower side, thus, the award passed by the Tribunal is required to be modified.

On the contrary, learned counsel for the insurance company submits that the award passed by the Tribunal is perfectly legal and justified and there is no scope for further enhancement.

I have heard learned counsel for the parties, appraised the paper book and of the view that the scope for enhancement is qua multiplier adopted by the Tribunal while assessing the future loss of income. I will retain the income taken by the Tribunal, apply a 50% cut as the disability has been assessed 50% permanent in nature and adopt a multiplier of 9. The total comes to ₹54,000/-, meaning thereby, the claimant shall be entitled to ₹24,000/- as enhanced amount. Rest of the award is maintained. This amount shall also attract interest @6% from the date of filing of the appeal till the date of realization. The liability shall remain the same as fixed by the Tribunal, in essence, the insurance company shall be at liberty to seek recovery of the amount of compensation from owner and driver after satisfying the award.

The award stands modified and the appeal is allowed to the above extent.

The accident is of the year 1997 and at that time the claimant was 60 years of age. By now, if the claimant is alive, he would be in his

80s. The counsel for the appellant has no instructions whether the claimant is alive or not. If the claimant is alive, the amount will be paid to him but if he is no more, the legal representatives of the claimant shall be at liberty to execute the award.

(AMIT RAWAL)
JUDGE

July 19, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No