

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

F.A.O No. 490 of 2004

Date of Decision:- 03.11.2017

Kuldip Singh

....Appellant

Versus

Gurmail Singh & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Deepak Goyal, Advocate, and
Mr. Yogesh Goel, Advocate, for the appellant.

Ms. Anju Sharma Kaushal, AAG, Punjab.

AVNEESH JHINGAN, J. (Oral)

Present appeal has been filed against the award dated 17.10.2003 passed by the Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal').

The file of this appeal was burnt and from the salvaged record of the partially burnt case, the same was reconstructed subject to all just exceptions and further verification.

On 11.03.2000, Kuldip Singh was going on his scooter bearing registration No. PIM 1319. When he reached near N.K.H. Factory, a bus bearing registration No. PB-12-9707 (for short, 'the offending vehicle') hit his scooter. As a result of the accident he suffered injury on the left leg and left hand. He was admitted to C.M.C hospital, Ludhiana. FIR No. 58, dated 12.03.2000 was registered at Police Station Division No.6, Ludhiana.

A claim petition under Section 166 of Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal after considering the material before it awarded a sum of Rs.40,000/- along with interest @9% per annum.

The appellant has filed the present appeal for enhancement of the compensation.

The facts have not been disputed by the parties.

Learned counsel for the appellant argues that the appellant was working as an electrician and was earning Rs.2,000/- per month. It is contended that as a result of the accident the finger of left hand was amputated. The appellant was hospitalised in C.M.C, Ludhiana and his disability was proved by Exhibit P/1 as 15% permanent disability. Dr. Gagandeep Singh deposed before the Tribunal to prove the disability. Michal Joseph PW-2 deposed before the Tribunal to prove the original bills Ex. P/2 to P/30. Even the medical bills were also proved by PW-3 Amolek Singh. He argued that the amount awarded is on the lower side.

Learned counsel for the respondent defended the award and resisted any further enhancement of the amount.

Hon'ble Apex Court in recent judgment, **Sandeep Khanuja Vs. Atul Dande, 2017 (3) SCC 351** has held in para No.10 as under:-

“10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under

the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability.”

It is the functional disability, which is to be taken into consideration while awarding the compensation.

Unfortunately, in the present case no evidence has been adduced that what is the effect of the 15% disability on the working of the appellant. Be that as it may, the amount of Rs.15,000/- awarded for permanent disability is on the lower side.

A Division Bench of this Court in case of **Piara Singh and Ors. Vs. Satpal Kumar and Ors, 2006(4) RCR (Civil) 546** awarded compensation for disability by multiplying a percentage of permanent disability by Rs.2,000/- in order to arrive at reasonable compensation.

Keeping in view the above decision the permanent disability compensation amount is enhanced to Rs.30,000/-.

Counsel for the appellant has not raised any dispute with regard to the reimbursement of medicines. His argument is that the

amount of Rs. 40,000/- awarded under the various heads are on the lower side.

The Hon'ble Apex Court in the case of **G.Ravindranath @ R. Chowdary Vs. E. Srinivas and Anr., 2013(12) SCC 455** has held that in case of fatal injuries, pecuniary and non-pecuniary damages have to be compensated.

Keeping the view the facts of the present case and the law laid down by the Hon'ble Apex Court, it is deemed appropriate that another sum of Rs.50,000/- over and above the sum already awarded by the Tribunal is awarded to claimant under the various Heads.

The award dated 17.10.2003 is modified to the extent that the amount of Rs.40,000 awarded is enhanced to Rs.1,05,000/-.

The appellant would be entitled to the enhanced amount along with interest @6% per annum from the date of filing of the claim petition till the realisation of the compensation.

Accordingly, the appeal is partly allowed and is disposed of in the above said terms.

November 03, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No