

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

FAO No. 4234 of 2008 (O&M)
Date of Decision: December 15, 2017

Devender @ Parminder

...Appellant

Versus

Jagat Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Dhruv, Advocate
for the appellant.

Mr. J.P. Sharma, Advocate
for respondent nos.2 & 2A.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 29.05.2008, passed by the Motor Accident Claims Tribunal, Narnaul, (here-in-after referred to as the Tribunal).

Devender @ Parminder sustained injuries in an accident which occurred on 02.11.2005. He was initially taken to a hospital in Narnaul and then shifted to SMS Hospital, Jaipur where he remained for three days. He underwent surgery and interlock nailing and bone grafting was done on 15.01.2006. The claimant suffered disability of 6%. It was claimed that he was a Machine Operator. The disability certificate records the injury on the right ankle.

The submission on behalf of the appellant is that the Tribunal had allowed only expenses of Rs.15,348/- but those were not included while calculating the total and the amount allowed for pain and suffering and for the disability and other heads is on the lower side. The counsel also submits that since there was a fracture, he would not have been able to attend to his duties for a number of months. It was also urged that the claimant was getting salary of Rs.5,000/- per month.

The submission on the other hand is that the disability is only 6% and the functional disability would be much lesser and there is no evidence with respect to the income and though there is a mistake in the calculation but sufficient amount has been allowed.

The accident had taken place in 2005. I would take the income at Rs.5,000/- per month but the functional disability at 4% and the loss would be Rs.200/- per month and applying the multiplier as per the age of the injured, the compensation for the disability would be Rs.43,200/- (Rs.200 x 12 x 18). Since the claimant had been operated upon, he would not have been able to attend to his duties at least for three months and some addition has to be made for loss of income, therefore, the compensation that was payable would be as under:-

Sr. No.	Head of Compensation	Amount
1.	Disability	Rs.43,200/-
2.	Actual expenses on medicines and treatment	Rs.15,348/-
3.	Pain and suffering	Rs.10,000/-
4.	Attendant charges (Rs.3000 x 5)	Rs.15,000/-
5.	Loss of income (Rs.3000 x 5)	Rs.15,000/-
6.	Special diet	Rs.7,500/-
7.	Transportation	Rs.7,500/-

The total comes to Rs.1,13,548/-. The amount allowed by the Tribunal would be deducted and balance would be paid within two months from the date of order, failing which the appellant would be entitled to interest @ 6%.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

December 15, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No