

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

IOIN FAO No.2844 of 2007(O&M)

Date of Decision:-03.11.2017

Satpal Singh (aged 33 years).

.....Appellant.

Versus

Kartar Transport & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ashwani Arora, Advocate for the Appellant.

Mr.Vinod Kumar, Advocate for
respondent no.2-Insurance Company.

JASWANT SINGH, J.

This is claimant's appeal for enhancement of compensation awarded under Workmen's Compensation Act, 1923, by Tribunal vide order dated 28.12.2006.

Learned Counsel for the appellant has argued that compensation awarded could not be reduced to 50% as done by the Tribunal in the present case, as the appellant was a driver by profession and due to amputation of his leg, the disability must be assessed as 100% because he would not be able to drive the bus due to the accident. Thus, on this ground, he has prayed that impugned award is liable to be modified. In support of his contention, he has relied upon **Partap Narain Singh Deo**

Vs.Srinivas Sabata &Anr. 1976(1) Supreme Court Cases 289.

On the other hand, learned Counsel for the respondent-Insurance Company has supported the impugned award passed by the Tribunal and has argued that as per the own disability certificate submitted by the claimant-appellant, his disability was assessed as 50% and therefore, the Tribunal had rightly awarded the compensation. Hence prayer has been made for dismissal of the present appeal.

After hearing learned Counsel for the parties and perusing the paper book as well as record, this Court is of the opinion that the present appeal deserves to be allowed and consequently the amount awarded by the Tribunal is required to be enhanced.

Undisputedly, the claimant had suffered injuries during course of employment. It is also not in dispute that he was drawing wages at the rate of Rs.3300/- per month. The Disability of appellant is also not in dispute. Further, there is no argument that age factor has not been correctly applied. However, the dispute is “whether the appellant is entitled to be compensated by computing his disability as 100% or not”. The said dispute has been answered by the Hon'ble Supreme Court in *Pratap Narain Singh Deo's case supra*, whereby it has been held that when the injury is of such nature, so as to cause permanent disablement and incapacitated the employee from performing all his work, which he was capable of performing, then his disability must fall within the definition of “**total disablement**” as defined under **Section 2(1)(1)** of the Act, 1923 and **not** under “**partial disablement**” as defined under **Section 2(1)(g)** of the Act, 1923.

To my mind, the aforesaid judgment of Hon'ble Supreme Court is squarely applicable to the facts of the present case. Since the nature of

injury of claimant is amputation of leg, due to which he will not be able to drive a vehicle for his entire life, therefore, he squarely falls within the category of “**total disablement**”. Consequently, I have no hesitation in holding that the disability of appellant is required to be assessed as 100% and the calculation of compensation has to be read as follows:-

$$60/100 \times 199.40 \times 100\% = \text{Rs.}5000/- \times 5 = \text{Rs.}3,94,812/-.$$

Apart from the aforesaid amount, appellant would also be entitled to simple interest at the rate of 12% on the enhanced amount, from the date of accident till release of the amount. Let the amount be released to the appellant-claimant within a period of 30 days from the receipt of certified copy of the order.

In view of the above,the impugned Award dated 25.12.2006 passed by the Tribunal, Mohali is modified and consequently, it is ordered that the appellant is entitled to enhanced amount of compensation as assessed by this Court.

(JASWANT SINGH)
JUDGE

November 3rd, 2017

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>