

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

FAO No.4732 of 2012

Date of Decision.15.11.2017

Balak Ram

.....Appellant

Vs

Sh. Shailender Singh and others

.....Respondents

Present: Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Suvir Dewan, 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 one Balak Ram, aged 37 years in an accident that took place on 28.10.2009. He was boarding a truck bearing registration No.HR-63-A-6475 for loading it and when he was doing so, a truck bearing registration No.PB-12C-1426 hit against the claimant in the process of reversing the aforementioned truck. The driver of the aforementioned truck was so negligent and rash in reversing the same without giving any indicator or signal that it hit against the injured and as a result of which, he entangled between the two trucks. The injured-claimant received grievous injuries as he suffered fracture of both hip joints and other multiple injuries. He was assessed permanently disabled to the extent of 23%.

The Tribunal while assessing the compensation provided ₹1,86,300/- for loss of future earning, ₹3439/- for medical expenses, ₹30,000/- for pain and suffering, ₹5,000/- for special diet, ₹5000/- for attendant charges, ₹9000/- for loss of earning during treatment and

₹10,000/- for loss of amenities, in total a sum of ₹2,48,739/- has been provided.

Mr. Arora, learned counsel appearing on behalf of the appellant submits that the amount assessed towards pain and suffering, loss of future income and loss of amenities of life are on lower side. It is evident from the testimony of the PW2 Dr. Shardaindu Sharma that the claimant cannot do any heavy work in future. Therefore, the claimant being a labourer will not be able to do any labour work in future and his disability to the extent of 23% should be taken as 100% functional disability, thus, urges this Court for enhancement of compensation.

Per contra, learned counsel appearing on behalf of the insurance company submits that the Tribunal has taken care of all the heads of claim sufficiently, therefore, there is no scope for further enhancement, thus urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. No doubt, it has come in evidence of the doctor that the claimant cannot do any heavy work in future like loading and unloading in trucks but it is nowhere mentioned that he is totally disabled to do any kind of labour work. He can do other labour works which requires less physical strength comparing to loading and unloading. Therefore, the amount of compensation provided by taking the loss of earning capacity as 23% is fair and just. The only head of claim that requires enhancement is pain and suffering, therefore, I will provide ₹70,000/- more over and above what has already been provided by the Tribunal under this head. Rest of award is upheld.

In view of the aforementioned, the claimant shall be entitled to

an enhanced sum of ₹70,000/-. This amount shall also entail interest @6% from the date of filing of the appeal till its realization. The liability shall remain the same as has already been determined by the Tribunal.

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

(AMIT RAWAL)
JUDGE

November 15, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No