

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

FAO No.995 of 2012

Date of decision: April 21, 2017

Partap

... Appellant

Versus

Ali Mohd. & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ravi Kamal Gupta, Advocate for the appellant.
Mr. S.S. Khurana, Advocate for respondent No.2.
Mr. Sanjiv Goyal, Advocate with
Mr. Rajneesh Malhotra, Advocate for the insurance Co.

Rajan Gupta, J.

Claimant has challenged the findings of the tribunal on the limited question of computation of compensation.

Learned counsel for the appellant submits that tribunal has erred in not granting adequate compensation under usual heads like loss of income, pain and suffering, special diet etc. He, thus, submits that reasonable amount may be granted to the appellant under the aforesaid heads separately.

Plea has been opposed by learned counsel for the insurance company. They have submitted that adequate compensation has been granted by the tribunal for the injuries suffered by the appellant.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears that accident took place on 10.5.2009, in which appellant suffered injuries. The tribunal held that accident had taken place on account of rash and negligent driving of the offending vehicle i.e. truck No.HR-55/C-8067, driven by respondent No.1. As a result of said accident, appellant suffered injuries on various parts of his body. The tribunal assessed monthly income of appellant as Rs.5000/-. He suffered permanent disability to the extent of 70% on account of amputation of his right arm below the elbow, as per disability certificate Ex.P-1, which was assessed by the Medical Board and proved by PW-1 Dr. Sunil Kumar. The tribunal granted compensation to the appellant as under:-

Head		Amount
Compensation on account of permanent functional disability 70% @ Rs.2500/- for 1% disability	:	₹ 1,75,000/-
Amount incurred on treatment and expenses Pain and suffering	:	₹ 15,000/-
Pain and sufferings	:	₹ 25,000/-
Special diet	:	₹ 10,000/-
Total	:	₹ 2,25,000/-

In my considered view, compensation on account of loss of income regarding permanent disability has wrongly been assessed. Monthly income of the appellant has been assessed as Rs.5000/- by the tribunal and appellant was 35 years of age at the time of accident. I am of the considered view that in view permanent disability, his income and age, the appellant has suffered loss of income at the rate of Rs.3500/-per month ($5000 \times \frac{70}{100} = 3500/-$) i.e. Rs.42,000/- per annum. A multiplier of

16 is required to be applied in this case and after applying this multiplier, appellant would be entitled to an amount of Rs.6,72,000/- on account of 70% permanent disability. In this way, the total enhanced compensation comes to Rs.4,97,000/-. The appellant would also be entitled to interest @ 7% per annum on the enhanced amount from the date of filing of claim petition till payment, as awarded by the tribunal. Appeal is allowed in these terms. Award of the tribunal is modified to this extent. Rest of the award is maintained as such.

April 21, 2017
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No