

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

**FAO No. 2064 of 2016 (O&M)
Date of Decision:- 29.11.2017**

Om Parkash

.... Appellant

Versus

Baldev Kumar & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Ms. Gurpreet Kaur Sandhu, Advocate for
Mr. H.S. Sandhu, Advocate, for the appellants.

None for respondent No.3.

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 04.11.2015 passed by the Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal').

On 25.12.2013, the appellant met with a motor vehicular accident involving car bearing registration No. CH-03-K-4056 and a car bearing registration No. HR-71-B-7493 (for short, 'the offending vehicle'). As a result of the accident the appellant received various injuries including fracture of his right leg and ribs. He was taken to CHC, Shahabad. Thereafter he took treatment from Government Medical College & Hospital, Sector -32, Chandigarh and thereafter from Fortis Hospital, Mohali. FIR No. 428 dated 31.12.2013 was registered at Police Station Shahabad.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal after appreciating the

facts and considering the material produced before it awarded a sum of Rs.2,93,183/- along with interest @9% per annum.

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

I have heard learned counsel of the appellant and perused the paper-book.

Learned counsel for the appellant argued that it was proved on record vide Exhibit P/3 that the appellant suffered 9% disability due to malunion patella and restriction of knee movements. The said exhibit was proved by the doctor, who deposed before the Tribunal. Learned counsel for the appellant relies upon the decision of this Court in case of **Piara Singh & Ors. Vs. Satpal Kumar & Ors, 2006(4) RCR (Civil) 546** and contends that the disability compensation should have been awarded following the above decision. He further contends that apart from getting pension the appellant was agriculturist and nothing has been awarded for loss of income during the period of treatment.

Nobody has put in appearance on behalf of respondent No.3 in spite of the fact that the notice was accepted in Court by Sh. Satpal Dhamija, Advocate, on the last date.

The contention raised by the learned counsel for the appellant deserves acceptance.

In the case cited above this Court awarded Rs.2000/- per percentage of disability suffered. It has not been disputed in the present case that there was 9% total physical disability suffered by the appellant. In such circumstances, amount of Rs.18,000/- (i.e. 9 x 2000) is awarded as

compensation for disability. Though it has not been proved on record that the appellant was himself cultivating the agricultural land, yet a claim has been made that he was indulging in agriculture. Since there was a fracture in the leg, the injury was such that he would have been restricted to bed at least of six weeks. In such circumstances, it is deemed appropriate that a sum of Rs.10,000/- is awarded for loss of earning during the period of the treatment.

No other issue was raised.

The award dated 04.11.2015 is modified to the extent that the amount awarded of Rs.2,93,183/- is enhanced to Rs.3,21,183/-.

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

The appeal is partly allowed.

November 29, 2017
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(AVNEESH JHINGAN)
JUDGE

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