

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

FAO-5386-2013

Date of decision: 18.1.2017

Gurmail Singh

...Appellant

Versus

Avadh Bihari Lal Gupta and others

...Respondents

**CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR**

Present: Mr.Bahadur Singh, Advocate for the appellant

Mr.Naveen Kapoor, Advocate for respondent No.3.

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**SNEH PRASHAR, J.**

By way of this appeal, appellant Krishan Kumar seeks enhancement of compensation awarded to him by learned Motor Accident Claims Tribunal, Panchkula (for short 'the Tribunal') vide award dated 16.2.2013 on account of the injuries suffered by him in a motor vehicular accident that took place on 2.2.2009.

The submissions made by Mr.Bahadur Singh, Advocate representing the appellant and Mr.Naveen Kapoor, Advocate for respondent No.3- Insurance Company have been considered and record perused.

It is submitted on behalf of the appellant that on account of the injuries suffered by him, he sustained disability to the extent of 25%.

Having become disabled he is unable to do his routine work. He

remained admitted in PGI from 3.2.2009 to 7.2.2009 and thereafter was on follow up treatment upto 15.9.2009. Submitting that the compensation awarded to the appellant is inadequate, learned counsel prayed for enhancement of the same.

On the other hand, learned counsel representing respondent No.3- Insurance Company submitted that the disability suffered by the appellant has neither caused loss in income nor loss in earning capacity and therefore the appeal deserves to be dismissed.

Perusal of the record reflects that the petitioner suffered injuries in a road side accident on 2.2.2009, caused by respondent No.1- driver of the offending Canter. He remained hospitalised from 3.2.2009 to 7.2.2009 in PGI, Chandigarh and thereafter took treatment for more than six months on account of multiple injuries including fracture of nasal bone, fracture of facial bone, fracture of left frontal bone of forehead, fracture of left leg below knee and injuries on hip and ribs suffered by him. PW1 Dr.Umesh Modi, SMO, stated that due to fracture of both bones of left leg, the appellant was unable to sit cross legged and he was disabled to the extent of 25%.

Following the law laid down by Hon'ble the Apex Court in **Raj Kumar vs. Ajay Kumar and another 2011(2) RCR (Civil) 101** learned Tribunal assessed functional disability of the appellant to the extent of 10% and applied the multiplier of 16, which warrants no intervention.

The appellant claimed that he was a Barber by profession

and was running a beauty parlour, but due to the disability suffered by him, he had to close his shop. No substantive or reliable evidence was led by the appellant to prove his occupation and earnings. However, the fact remains that the accident took place in the year 2009 and even if the petitioner prior to the accident was a daily wager, yet his monthly income could not be less than Rs.4200/-. Learned Tribunal assessed the income on the lower side. Thus, compensation on account of loss of earning of the appellant is assessed as Rs.80640/- (10% of Rs.4200 x 12 x16 (multiplier)

Perusal of the award shows that no amount was awarded to the claimant on account of loss of amenities of life, therefore, a sum of Rs.20,000/- is allowed on that count. Keeping in view the hospitalisation period and the trauma suffered by the appellant due to the injuries, the amount awarded on account pain and suffering is also enhanced to Rs.25,000/-.

Accordingly, the enhanced amount of Rs.48,440/- shall be paid to the appellant within two months from the date of the receipt of the certified copy of this judgment, failing which, the same shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

18.1.2017

**(SNEH PRASHAR)**

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JUDGE

Whether speaking / reasoned?  
Whether reportable?

Yes / No  
Yes / No