

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

FAO No.9451 of 2014

Date of Decision.08.09.2017

Sarbwant Singh Johar

.....Appellant

Vs

Balwinder Singh and another

.....Respondents

Present: Mr. Viren Jain, Advocate
for the appellant.

Mr. C.S. Sharma, Advocate
for respondent No.1.

Mr. Ravinder Arora, Advocate & Mr. Neeraj Khanna, Advocate
for respondent No.2.

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 in a motor accident occurred on 25.04.2010. The claimant was travelling in a maruti car bearing registration No.PB-08-3399 when a swift car bearing registration No.Pb-08-AH-Temp-9233 driven rashly and negligently by respondent No.1 hit against the aforementioned maruti car, resulting into fracture of his leg. An FIR bearing No.118 dated 27.04.2010 was also lodged with Police Station Maqsudan Jalandhar in this regard. On 25.04.2010, he was admitted in Joshi Hospital, Jalandhar where he was diagnosed with comminuted superior margin (Lt) acetabulum, post dislocation of femoral head and nerve injury with foot drop. He was operated for acetabular plating with skeletal traction and discharged on 16.05.2010. He was declared permanently disabled by a medical board of doctors to the extent of 40%.

the following heads:-

1.	Pain and suffering	₹50,000/-
2.	Medical expenses including physiotherapy and expected cost of surgery	₹10,41,656/-
3.	Attendant	₹15,000/-
4.	Special diet	₹20,000/-
5.	Loss of income while he remained unable to resume daily chores	₹50,000/-
6.	Compensation for future treatment	₹1,00,000/-
7.	Damage to car	₹35,955/-
	Total	₹13,12,611/-

Mr. Jain, learned counsel appearing on behalf of the appellant submits that the claimant remained hospitalized from 25.04.2010 to 16.05.2010, thus, the amount of ₹50,000/- towards pain and suffering is on lower side. The Tribunal did not provide anything under the head of loss of earning capacity towards 40% permanent disability as assessed by the medical board of doctors, much less, loss of amenities and loss of prospect of marriage, thus, urges this Court for enhancement of compensation by modifying the award passed by the Tribunal.

Mr. Sharma, learned counsel appearing on behalf of respondent No.1 and Mr. Arora, learned counsel appearing on behalf of respondent No.2 submit that the Tribunal has taken care of all the heads of claim in providing ₹13,12,611/- as compensation, thus, there is no scope for further enhancement.

I have heard learned counsel for the parties and appraised the paper book. The heads of claim not addressed by the Tribunal are loss of earning capacity, loss of amenities and loss of prospect of marriage. The claimant was stated to be working as Manager (Operations) in Kapsons Firm at Amritsar and earning ₹15,000/- per month, therefore, I will take the

40% permanent disability of the claimant as 40% functional disability and adopt a multiplier of 17, as the claimant was 30 years of age at the time of accident, to assess the loss of earning capacity as ₹12,24,000/-. I will also provide ₹50,000/- more towards pain and suffering, ₹50,000/- towards loss of amenities of life and ₹1 lac for loss of prospect of marriage. In all, the appellant-claimant shall be entitled to enhanced compensation of ₹14,24,000/- over and above what has already been provided by the Tribunal. This amount shall also attract interest @6% from the date of filing of the appeal till realization. The liability shall remain the same as has already been determined by the Tribunal.

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

(AMIT RAWAL)
JUDGE

September 08, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No