

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

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FAO 9876 of 2014 (O&M)
Date of decision: 15.09.2017*Surjit Singh**.....Appellant**Versus**Ranbir Singh Bisla and others**.....Respondents***Coram: Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Vinod K Kanwal Advocate
for the appellantMr. Radhe Shyam Sharma, Advocate
for respondent No. 3

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Rekha Mittal, J. (Oral)

The injured victim is in appeal seeking enhancement of compensation in respect of injuries sustained in a motor vehicular accident that took place on 23.05.2011.

The Motor Accidents Claims Tribunal, Karnal (hereinafter to be referred as 'the Tribunal') awarded compensation to the tune of Rs.1,40,600/-, detailed hereunder:-

Injury case	Age	70 years
Period of hospitalization	23.05.2011 to 28.05.2011	
Occupation and income	Agriculturist	
	Heads of claim	
Loss of income	Nil	
Medical expenses including medicines	80,600	
Attendant charges for five days and others expenses	5,000	

Special diet	5,000	
Pain and suffering	20,000	
Disability 15%	30,000	
Loss of earning capacity	Nil	
Total	1,40,600	

Counsel for the appellant has submitted that compensation awarded by the Tribunal under various heads except on medical treatment is inadequate and liable to be enhanced. To bring home his contention, it is argued that the vicim suffered disability to the extent of 30% but the Tribunal has awarded meager amount Rs.30,000/- by considering disability to the extent of 15%. No compensation has been awarded for transportation and loss of income during the period of treatment and recovery.

Counsel representing the insurance company, on the other hand, has supported the award with the submission that on a detailed consideration of the materials on record, the Tribunal has assessed just compensation.

The claimant remained hospitalized in Virk Hospital, Karnal from 23.05.2011 to 28.05.2011. Dr. Balbir Singh Virk (PW1) has deposed that Surjeet Singh suffered fracture left femur and medieval in a road side accident. He was operated upon and discharged on 28.05.2011. Dr. Vinod Kumal, SMO, KCGMC, Karnal (PW2) was examined to prove disability certificate Ex.PW2/A and nature and extent of disability i.e. 30% suffered by the injured.

The Tribunal has reimbursed expenses on medical treatment on the basis of bills etc. produced on record. Dr. Vinod Kamal (PW2) has deposed that Surjeet Singh was examined by a Medical Board and found

that it was a case of road side accident with operated left hip and operated case of left shaft femur with implant with partial restriction of hip and knee moment of limping and disability to the extent of 30% was assessed. In his cross examination, he has deposed to the following effect:

“I cannot tell about the condition or extent of moment in the hip joint and knee joint prior to accident. The possibility cannot be ruled out restricted movement in aforesaid joint of a person because of advanced age cannot be ruled out. However, it vary from person to person. In this case, the disability alleged cannot be reduced by physiotherapy.”

Perusal of the aforesaid extract makes it evident that Dr. Vinod Kamal could not confirm if restriction in movement of hip joint and knee joint has resulted due to injuries sustained in the accident or because of old age of Surjeet Singh who was about 70 years old at the time of occurrence. There is nothing on record suggestive of the fact that disability suffered by the injured is qua whole body. The Tribunal has assessed compensation of Rs.30,000/- qua disability to the extent of 15%. As the injured did not suffer functional disability, I do not find merit in contention of the appellant that future loss of income is to be admissible by adopting multiplier. Compensation awarded by the Tribunal @ Rs.2,000 per percent to the extent of 15% appears to be adequate and ordered to be affirmed.

The Tribunal has awarded an amount of Rs.20,000/- for pain and sufferings. The inured victim suffered fracture left femur and medievall and operated upon. Compensation awarded by the Tribunal for pain and sufferings also appears to be adequate. However, the claimant shall be

entitled to an amount of Rs.10,000 for loss of income during the period of treatment and recovery, Rs.20,000/- for loss of amenities of life and Rs.5,000/- for expenses on transportation. In this manner, the appellant shall be entitled to additional amount of Rs.35,000.00, payable with interest @7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.09.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No