

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

FAO No.1014 of 1990 (O&M)

Date of decision: 05.07.2018

UGAM CHAND

... Appellant

Versus

STATE OF HARYANA AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Bhanvi Sood, Advocate for
Mr. Aditya Jain, Advocate for the appellant.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Chetan Kapoor, Advocate for
Mr. Ashish Gupta, Advocate
for respondent No.3.

Mr. Radhey Shyam, Advocate
for respondent No.4.

REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation qua injuries sustained in a motor vehicular accident that took place on 08.11.1988.

The appellant was working as Sub Inspector in Rajasthan Police at the relevant time and sustained injuries while travelling in bus No.HNG-931 of Haryana Roadways, on his way from Delhi to Jaipur. The Tribunal has awarded compensation of Rs.38,000/- i.e. Rs.3000/- for medical expenses (wrongly mentioned as Rs.300/-) and Rs.35,000/- as

general damages for loss of promotion, joy of life, physical and mental pain and agony.

The claimant examined Dr. Mahesh Chand Bansal, Assistant Professor, Orthopedics, SMS Medical College, Jaipur PW2. He has deposed that the appellant had compound fracture of right arm bones and elbow. He remained admitted in the hospital from 09.11.1988 to 15.11.1988. He was operated upon, bones were fixed with nails and debridement was also done. Later, one of the nails was removed that became loose and infected and the injured was advised plating and bone grafting. He further deposed that there is permanent deformity and disability of appellant's right arm at forearm and elbow level. He cannot straighten his arm completely and cannot have full grip with his hand due to mild stiffness, resulting in disability to lift heavy weight and writing with right hand normally. The claimant also produced on record a certificate issued by Deputy Inspector General of Police to the effect that the appellant could not appear in promotion test held in June, 1989 due to fracture of his right hand.

Indisputably, the appellant did not examine a witness from his office to prove something with regard to loss of income, reimbursement of medical expenses or future loss in service career due to sustaining injuries. He did not get his disability assessed from a medical board for the reasons best known. He only produced on record a certificate that he could not appear in the test held in June, 1989 but there is no tangible material on

record that his non-appearance in test in June, 1989 has actually affected his promotion avenues or caused any loss to promotion etc. The Tribunal has awarded compensation of Rs.35,000/- as general damages for loss of future promotion, loss of amenities of life and for pain and sufferings. Taking a cumulative view of the materials on record, interest of justice would be served, if the claimant is awarded a sum of Rs.50,000/- (additional amount of Rs.15,000/-) qua general damages under the aforesaid heads. The additional amount of Rs.15,000/- shall be 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

05.07.2018
ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No