

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

FAO No.1925 of 1999

Date of Decision.19.03.2018

Jatinder Kumar

.....Appellant

Vs

M/s Dasmesh Bus Service and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Denesh Goyal, Advocate
for the appellant.

Mr. D.S. Sandhu, Advocate
for respondent Nos.1 and 2.

Mr. Sukhdarshan Singh, Advocate
for respondent No.3.

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for injuries suffered by the appellant in a motor accident occurred on 6.9.1995. He was driving a maruti van bearing No.PB-01-0479 and when he reached near Ladda Kothi turn, he saw a tree was uprooted. The claimant tried to pass the van from available path on right side but in the meantime, a bus bearing No.PAB 7565 came from Dhuri side driven by respondent No.2 and hit against the van of the claimant. As a result of accident, he suffered injuries on leg and abdomen with fracture in pelvis resulting in shortening of leg by 1 inch and limping. Both intestines of the claimant were damaged and his disability was assessed as 50% permanent in nature. The claimant was 26 years old and stated to be earning ₹3000/- from his profession as an electrician.

The Tribunal while assessing the compensation provided

suffering, loss of enjoyment of life and other misc. and ₹10,000/- for loss of income, thus, totaling a sum of ₹45,000/-. However, since the claimant was held equally responsible for causing the accident, the claimant was held entitled to a compensation of ₹22,500/- with interest @12% per annum from the date of filing of petition till realization and if the payment is not made within 30 days, the rate of interest shall be 15% per annum.

Mr. Denesh Goyal, learned counsel appearing on behalf of the appellant submitted that the Tribunal has grossly erred in providing ₹10,000/- for loss of income in a case of 50% permanent disability. The amount of ₹5000/- each provided towards pain and suffering, loss of enjoyment and other misc. heads. is too meager. The Tribunal ought to have adopted multiplier method while assessing the compensation for future loss of income, thus, there is definite scope for enhancement.

Per contra, Mr. D.S. Sandhu, learned counsel appearing for respondent No.1 and 2 and Mr. Sukhdarshan Singh, learned counsel appearing for respondent No.3 submitted that the Tribunal has taken care of all the heads of claims sufficiently and there is no further increase possible, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties, appraised the paper book and of the view that the amount of compensation provided towards pain and suffering is too meager. The claimant suffered serious injuries in the accident including fracture of thigh and damage of intestines, therefore, I will increase the component of pain and suffering from ₹5000/- to ₹50,000/-. As regards, the future loss of income, PW2 doctor deposed that the petitioner though could not squat but can attend his business or do his job. Learned counsel for the appellant failed to explain as to how and in

what manner the injuries affected the earning capacity of the appellant. In the absence of the same, there is no scope for assessing the compensation under the head of loss of future income.

As an upshot of my finding, the appellant shall be entitled to an enhanced amount of ₹25,000/- only on account of the fact that he was held to be equally responsible for causing the accident. This amount shall also attract interest @6% from the date of filing of the appeal till realization.

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

(AMIT RAWAL)
JUDGE

March 19, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No

