

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

FAO No.5562 of 2002(O&M)

Date of decision: 26.2.2018

Gurcharan Singh

.....Appellant

VERSUS

Hari Parsad Yadav and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. J.S. Cooner, Advocate for the appellant.

Respondent No.1 proceeded ex parte vide order dated
20.01.2005.

Mr. Vikram Sharma, Advocate for
Mr. Manish Soni, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

The injured victim is in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Kurukshetra (in short 'the Tribunal') on account of injuries sustained by him in a motor vehicular accident that took place on 23.11.1999.

The Tribunal has awarded compensation of Rs.1,00,000/-
detailed herein:-

Pain and suffering and physical disability	Rs.45,000/-
Expenses on medical treatment	Rs.40,000/-
Loss of income and loss of amenities etc.	Rs.10,000/-
Special diet, transportation and attendant charges	Rs.5,000/-

Counsel for the appellant would argue that the injured is an agriculturist and permanent disability is bound to create hindrance in his agricultural activities and drive tractor, therefore, compensation qua permanent disability is liable to be assessed by applying multiplier method. In addition, it is argued that compensation awarded under other heads needs enhancement.

Counsel representing respondent No.2 has supported assessment made by the Tribunal with the plea that claimant has been adequately compensated.

Dr. G.D. Mittal, Medical Officer, PW-1 was examined to prove disability suffered by the victim. He has deposed that as per disability certificate, disability of the patient is 28% i.e. due to limitation of movement of left hip – 12%, shortening of left lower limb– 2 ½ - 16%. However, in his cross examination he would state that disability of 12% on account of limitation of movement of left hip is temporary in nature and likely to improve with passage of time and physiotherapy. There is nothing on record suggestive of the fact that the injured got his disability re-assessed in order to prove that his disability to the extent of 12% on account of limitation of movement of left hip did not improve with passage of time. Under the circumstances, physical disability to the extent of 16% is to be taken into account for assessing loss of income qua disability.

The claimant has not placed on record his driving licence to prove that he had been driving the tractor prior to the occurrence or disability would create hindrance in his that activity. There is no medical opinion as to what would be the percentage of functional disability on account of 16% disability to a particular lower limb because of shortening.

Under the circumstances, interest of justice would be served if the claimant is awarded an amount of Rs.32,000/- at the rate of Rs.2,000/- per percent qua permanent disability suffered by him.

The Tribunal has allowed an amount of Rs.45,000/- for pain and suffering as well as disability. The injured remained hospitalized for a period of 12/13 days. He sustained injury on his left limb which rendered him disable permanently to the extent of 16%. Under the circumstances, compensation for pain and suffering is allowed to the tune of Rs.15,000/-. The total compensation under the two heads is Rs.47,000/- (additional amount of Rs.2,000/-).

Compensation awarded by the Tribunal qua medical expenses, special diet, transportation and attendant charges is ordered to be affirmed. As the injured remained under treatment for 12/13 days and would have taken some more time to recover from his condition coupled with extent of disability suffered by him, interest of justice would be served if the claimant is allowed an additional amount of Rs.10,000/- for loss of income and loss of amenities etc. In this manner, claimant shall be entitled to additional amount of Rs.12,000/-, payable with interest at the rate of 7.5% per annum from the date of petition till realization. All other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

FEBRUARY 26, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no