

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-1637-2013 (O&M)
Date of decision: 20.02.2018

Vidhanand ... Appellant

VS

Rohtash & anr. ... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Partibha Yadav, Advocate
for the appellant.

Mr. M.B.Jain, Advocate
for respondent No.2.

Hari Pal Verma, J.(Oral)

The claimant has filed the present appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Narnaul (in short 'the Tribunal') vide order dated 20.12.2012.

In the claim petition filed under Section 166 of the Motor Vehicle Act, 1988 on account of injury suffered by the appellant-claimant in the Motor Vehicular Accident, which took place on 12.05.2010, the Tribunal has awarded total compensation of Rs.1,37,797/- under various heads as under:

<i>Sr. No.</i>	<i>Name of the head</i>	<i>Amount</i>
1	Medical Expenses	Rs.70,297/-
2	Pain and suffering	Rs.30,000/-
3	Special diet	Rs.20,000/-
4	Transportation	Rs.15,000/-
5	Loss of Income	Rs.2,500/-
	Total	Rs.1,37,797/-

Learned counsel for the appellant has argued that taking into

consideration the injury so caused to the appellant, adequate compensation has not been awarded. The claimant is an agriculturist and on account of injury suffered by him, he could not cultivate his land for a sufficient period. She has referred to jamabandies to substantiate that the claimant and his wife are the owners of agricultural/cultivable land and therefore, the appellant is an agriculturist.

On the other hand, learned counsel for respondent No.2 has argued that the injury caused to the claimant was not serious enough and disability to the extent of 26% suffered by the claimant was only temporary in nature. Therefore, the Tribunal has already awarded adequate compensation and no interference is warranted.

I have heard learned counsel for the parties.

The impugned order reveals that on account of injury suffered by the claimant, a nominal amount of Rs.2,500/- has been awarded under the head of loss of income whereas it is submitted that the claimant suffered disability to the extent of 26% on account of injury in the right shoulder which is certified and a Disability Certificate dated 16.11.2011 has been issued by Dr. Pankaj Aggarwal – PW-6, who was examined by the claimant in support of contention to establish 26% disability. In his statement, PW-6 has submitted that the injury were required to be reviewed after the removal of the implanted nail. The Tribunal had erred while assessing the compensation under the head of loss of income. Though the injury, which has been certified as 26% was temporary in nature, but physical status of the claimant remained under review even after completion of the treatment. Even otherwise, it is not expected that after undergoing such surgical implantation of plates in his right shoulder, the claimant started functioning

immediately thereafter. After undergoing such surgery, he must be on rest for a reasonable period and must have been advised not to exert more.

Therefore, this Court finds that he must have suffered loss of income out of job/agricultural activities for a considerable period. Accordingly, a lump sum amount of Rs.25,000/- is awarded towards loss of income instead of Rs.2,500/-. The claimant shall be entitled to interest @ 7.5% on the enhanced amount from the date of filing of petition till its realisation.

With this modification, the present appeal is disposed of.

20.02.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No