

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

FAO-1537-2014 (O&M)
Date of decision: 18.04.2018

SUBE SINGH

.. Appellant

Versus

STATE OF HARYANA AND ORS.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ram K. Saini, Advocate
for the appellant.

Mr. Vishal Kashyap, AAG, Haryana.

Mr. Rajesh K. Sharma, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The injured is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Hisar whereby compensation has been awarded to the tune of Rs.84,000/-, detailed hereunder:-

- | | |
|--|-------------|
| 1. Compensation on account of sustaining grievous injuries | Rs.40,000/- |
| 2. Medical expenses | Rs.4000/- |
| 3. Services of an attendant, special diet and loss of income | Rs.20,000/- |
| 4. Pain and mental agony | Rs.20,000/- |

Counsel for the appellant would argue that the victim suffered

disability to the extent of 6% as per disability certificate Ex.P6 but he has not been awarded any compensation qua disability, future loss of income and loss of amenities of life.

Counsel representing the insurance company has supported assessment made by the Tribunal. It is argued that the Tribunal has awarded an amount of Rs.40,000/- on account of grievous injuries but as per judgment passed by Hon'ble the Supreme Court **Raj Kumar Vs. Ajay Kumar and others, 2011(2) RCR (Civil) 101**, there is no such head under which compensation can be allowed by the Tribunal. According to counsel, disability certificate has not been proved in accordance with law much less as to how disability of 6% to a particular limb i.e right arm is to be treated to assess functional disability or loss of income.

I have heard counsel for the parties, perused the paper book, testimonies of Dr. Anurag Chhabra PW3, Dr. Rakesh Sharma PW4 and copies of documents marked as exhibits before the Tribunal including the disability certificate made available by counsel for the appellant during the course of hearing.

Dr. Anurag Chhabra has deposed that Sube Singh was admitted in Maharaja Aggarsen Medical College, Agroha on 10.01.2012, diagnosed as a case of fracture shaft of humerus right with lacerated wound forehead. He was treated conservatively and discharged on 12.01.2012 in better condition. Dr. Rakesh Sharma, CMO, Medical College, Agroha PW4 proved medico legal report Ex.P4 and copy of the complete treatment file

Ex.P5.

Perusal of the medico legal report Ex.P4 would reveal that the injured had pain, swelling, tenderness and undue mobility of right arm and was advised x-ray of right arm with shoulder and right arm with elbow. As per statement of Dr. Anurag Chhabra, there was fracture of shaft of humerus as noticed in Ex.P5 as well. Perusal of the disability certificate Ex.P6 would certainly indicate that the injured has suffered permanent physical impairment of 6% of right upper limb but the remarks recorded by the doctor to explain the disability could neither be read with certainty by counsel for the appellant nor by the Court. There is nothing on record suggestive of the fact as to how disability is to be treated for assessing functional disability in the context of avocation of the injured victim. In the given scenario, claimant, at best, can be held entitled to compensation of Rs.12,000/- @ Rs.2000/- per percent in regard to disability suffered by him but as the Tribunal has already awarded Rs.40,000/- in respect of grievous injuries without there being any such head available for grant of compensation, amount of Rs.12,000/- payable qua disability would be appropriated towards compensation of Rs.40,000/- already allowed by the Tribunal. Similarly, claim of the appellant for grant of compensation for transportation expenses would also be covered in the amount of Rs.40,000/- already allowed by the Tribunal. There is no justification for enhancement of compensation on any count whatever.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

No order as to costs.

18.04.2018
ashok

(REKHA MITTAL)
JUDGE

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