

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

FAO No. 2910 of 2015 (O&M)
Date of decision : September 12, 2018

Anil Nath

..... Appellant

v.

Anil Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Gurinderpal Singh, Advocate
for the appellant.

Mr. Tarun Yadav, Advocate
for Mr. Tapan Kumar Yadav, Advocate
for respondents No.1 and 2.

Mr. GD Gupta, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed by the injured-claimant for enhancement of compensation.

Brief facts are that on 27.12.2012 at about 10.30 am, while the appellant and his brother-in-law were standing at bus stand Shahbazpur Makharia, the offending car being driven by respondent No.1 in a rash and negligent manner, struck against them, and as a result of this accident, both fell down on the road and left leg of the appellant was crushed by the offending vehicle.

The Tribunal held the driver of the offending vehicle responsible for causing the accident, and assessed the disability of the appellant to the extent of 60% on account of amputation though left leg. The

appellant was working as a labourer and his income was assessed as ₹ 6000/- per month and after applying multiplier of 16, the total compensation assessed was ₹ 7,67,117/- including ₹25,000/- on account of pain and suffering, ₹ 35,917/- for medical expenses, ₹ 10,000/- for special diet/attendant charges, and ₹ 5,000/- for transportation charges.

Counsel for the appellant has argued that future prospects of 40% had to be awarded in this case. Counsel for the Insurance Company has accepted this. Consequently, I grant 40% future prospects.

Counsel for the appellant has further argued that the amount of ₹ 10,000/- for special diet and attendant charges is highly inadequate. Counsel for respondent No.3 does not dispute this. I grant ₹ 40,000/- more on this account.

Counsel for the appellant has further argued that a sum of ₹ 5,000/- for transportation is also inadequate. I grant ₹ 20,000/- more on this account.

Counsel for the appellant has further argued that the Tribunal erred in granting only a sum of ₹ 25,000/- towards pain and suffering. He has relied upon a decision of the Supreme Court in Syed Sadiq etc v. Divisional Manager, United India Insurance Co. 2014(1) RCR (Civil) 765. As per him, in the said case, the accident had taken place in 2008 and the Supreme Court had ordered a sum of ₹ 75,000/- towards pain and suffering. In the present case, the accident has taken place in 2012 and, therefore, some more amount should be awarded. I deem it appropriate to grant ₹ 75,000/- more towards pain and suffering in view of the fact that the accident in this case has taken place in 2012.

Counsel for the appellant has further argued that nothing has

been awarded towards loss of amenities. Counsel for the Insurance Company does not dispute this. Consequently, I award a sum of ₹ 1 lakh on this account.

Counsel for the appellant has further argued that the Tribunal erred in not granting any thing towards the cost of artificial leg. I accept this and grant a sum of ₹75,000/- on this account.

Counsel for the appellant has further argued that in the case of Syed Sadiq etc (supra), a sum of ₹ 1 lakh was also awarded towards future medical expenses. I grant the same in this case also.

Counsel for the appellant has also argued that in the case of Syed Sadiq etc (supra), functional disability of the injured who was a vegetable seller was taken to the extent of 85%. In the present case, the appellant is a labourer and, therefore, functional disability could not be only 60%.

In my opinion, this argument cannot be accepted because in the aforesaid case, the amputation was at thigh level, whereas in the present case, the amputation is below the knee. In the circumstances, the disability in that case was definitely much more.

There shall be no change in the remaining award. With these modifications in the Award, this appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

September 12, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No