

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

FAO No. 1505 of 2017

Date of decision : November 20, 2018

Narinder Singh

..... Appellant

v.

Surinder Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Sanjay Jain, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed by the injured/appellant for enhancement of compensation, and against the finding vide which the Tribunal held the case to be of contributory negligence.

Counsel for the appellant has argued that there was no justification for the finding of contributory negligence only on the ground that the appellant had admitted that it was a head on collision. As per him, the appellant was driving on Ambala-Chandigarh highway and on the Kartarpur road, the accident took place. The contention of the counsel is that this was a left turn. As per him, if the appellant had taken a right turn, the finding of contributory negligence may have been justified even in the absence of any testimony to this effect but when a person is turning left

there is no scope for him to go towards the centre of the road. In the absence of positive evidence to this effect and in the face of the fact that even in the cross-examination of the appellant, the only suggestion given was that he was talking on the mobile (which was denied by him), this finding is completely unjustified. I find favour with this argument. In the circumstances, the finding of contributory negligence is set aside.

Counsel for the appellant has further argued that only a sum of ₹ 22,500/- has been awarded for the hospitalization of three weeks, pain and suffering and special diet, and that nothing has been awarded for attendant and transportation. I deem it appropriate to award further sum of ₹77500/- on this account.

Counsel for the appellant has further argued that the rate of interest i.e 7.5% as awarded by the Tribunal is highly inadequate. I find this to be correct and in view of the decision of the Supreme Court in Civil Appeal No.9581 of 2018, Magma General Insurance Company Ltd vs Nanu Ram @ Chuhru Ram and others, decided on 18.9.2018, the enhanced amount would carry rate of interest as 12% pa from the date of filing the claim petition till the date of payment. The remaining award would remain unchanged. This appeal stands disposed of.

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

(AJAY TEWARI)
JUDGE

November 20, 2018
'kk'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No