

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

FAO No. 7935 of 2016

Date of decision : September 12, 2018

Karan Singh

..... Appellant

v.

Bane Khan and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ashish Kapoor, Advocate
and Mr. Chetan Kapoor, Advocate
for the appellant.

Mr. VK Garg, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed for enhancement of compensation.

Brief facts are that on 5.5.2013, the appellant and two other persons were going from Sakras to Ferozepur Jhirka on a motor cycle being driven by Arshad and when they reached near Sumer Petrol Pump, Ferozepur Jhirka, the offending motor cycle being driven rashly and negligently came from front side and hit into the motor cycle of the appellant, and as a result of this accident, all the motor cyclists fell down on the road and sustained injuries. The appellant sustained grievous injuries including fracture of right leg and became permanently disabled to the extent of 18%.

The Tribunal held the driver of the offending vehicle

responsible for causing the accident. Notional income of the deceased was assessed as ₹ 6000/- per month being an unskilled worker. After applying multiplier of 17, total compensation assessed came to be ₹ 1,10,160/- including ₹ 20,000/- for transportation charges, ₹ 20,000/- for special diet, ₹ 1,000/- for medical expenses, and ₹ 30,000/- for pain and suffering.

Counsel for the appellant has argued that the injured was a rickshaw puller and the disability being on account of restricted movement of right hip and knee, the functional disability is much higher because he could not ply his rickshaw. As per him, in Syed Sadiq etc v. Divisional Manager, United India Insurance Co. 2014(1) RCR (Civil) 765, where amputation of the leg of a vegetable seller had taken place, the Supreme Court had fixed the functional disability at 85%.

In my considered opinion, 18% disability in right hip and knee cannot be translated into 85% functional disability but I deem it appropriate to fix the functional disability at 50% in this case.

Counsel for the appellant has further argued that future prospects of 40% should also have to be awarded. I find favour in that as well and grant the same.

Counsel for the appellant has further pointed out that medical expenses of ₹ 4,000/- have been rightly awarded but the fact remains that the appellant remained in hospital for 10 days and some amount should have been awarded for attendant also. I find some merit in this argument and award ₹6,000/- more on this account.

Counsel for the Insurance Company, however, points out that the rate of interest of 9% awarded by the Tribunal is too excessive. I find it to be true and direct that the enhanced compensation amount would carry

rate of interest @ 7.5.% from the date of the application till the date of payment. The remaining Award shall remain unchanged. With this modification 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:	Yes/No
Whether Reportable:	Yes/No