

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

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**FAO-2659-2018 (O&M)
Date of Decision : 10.10.2018**

Rameshwar Ram

....Appellant

vs.

Baljit Kaur and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Yogesh Gupta, Advocate
for the appellant(s).

Mr. V.K.Garg, Advocate
for the respondent No.3.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 25.10.2017 passed by Motor Accident Claims Tribunal, SAS Nagar (Mohali) awarding compensation of Rs. 2,72,803/- alongwith interest at the rate of 6% per annum on account of death of injuries sustained by Rameshwar Ram in an accident.

Since limited points have been urged detailed reference to the facts is not required.

Counsel for the appellant has argued that the doctor had unequivocally assessed the disability of 30% qua particular limb but it effect the whole body. The appellant was treated as unskilled labourer and in the the circumstances, the Tribunal erred in holding the functional disability only at 15%. As per him, for an unskilled labourer disability in his leg will

definitely suffer a higher functional disability even than the physical disability. Counsel for the insurance company has however argued that once there was no proof of income as to what the appellant was doing the finding of the Tribunal is justified in this regard.

In my considered opinion, the argument of the both the counsel is too extreme. Keeping in view the entire facts, I take functional disability to be 30%. Counsel for the appellant has relied upon the judgment of this Court passed in the matter of ***Ram Kiran Goyal vs. Sub Divisional Mechanical 2008 (2) RCR (Civil) 103*** where Rs.2,000/- has to be paid for every per cent of disability. Counsel for the appellant stated that the Tribunal has awarded only Rs. 20,000/- for loss of amenities of life. Counsel for the respondent No.3 is not in a position to deny this. In the circumstances, Rs. 40,000/- more is granted.

Counsel for the appellants argues that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 25% future prospects has to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 25% future prospects.

Counsel for the appellant has argued that under the head of pain and suffering, attendant and transport charges the Tribunal has awarded less amount and nothing has been awarded for special diet. I award Rs.60,000/- more under all these heads.

Counsel for the appellant has further pointed out that in the judgment of “***Magma General Insurance Company Limited vs. Nanu***

Ram Alias Chuhru Ram and others” in Civil Appeal No. 9581 of 2018

decided on 18.9.2018 the Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

10.10.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No