

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4135-2001

Date of decision : 5.4.2019

Pradeep Sharma, Advocate

..... Appellant

Versus

Bir Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Harsh Aggarwal and Mr. Aseem Aggarwal, Advocates,
for appellant.

Mr. Ramesh Kumar Ambavta, DAG Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J.

Appellant Pradeep Sharma, aged about 42 years and an advocate by profession, was going in his car on 6.7.1998 to Chandigarh. At about 2.15 PM, near Lalru, when he was crossing J.C. Coach Factory, a bus of Haryana Roadways bearing registration No. HR-37-4430 came at a very high speed from Chandigarh and hit his car, as a result of which appellant received five fractures on his right foot, a fracture in his rib and multiple fracture in his right arm. He was admitted in PGI, Chandigarh and remained there till 10.7.1998. Then, he was admitted to Kiran Nursing Home, DLF Faridabad, for operation and was discharged on 14.7.1998. Then he was taken to Holi Family Hospital, New Delhi, where he was operated upon for fracture on his arm on 15.7.1998 and was discharged on 17.7.1998. On the very same day, he was readmitted in Holi Family Hospital, New Delhi, for fracture on his arm. He was readmitted to Kiran Nursing Home, DLF

Faridabad, and remain confined to bed till 17.7.1998. His right arm was shortened by two inches and left foot by one inch.

The Tribunal took income of appellant to be Rs. 10,000/- per month and allowed Rs. 40,000/- for loss of earning. Rs. 1,00,000/- was allowed for permanent disability. Rs. 1,50,950/- were allowed for medical expenses. Rs. 30,000/- on account of pain and suffering, Rs. 20,000/- on account of transportation and special diet and Rs. 10,000/- for future prospects were allowed. Total compensation of Rs. 3,50,950/- was allowed. Appellant has filed this appeal for enhancement of compensation.

I have heard learned counsel for parties and have also carefully gone through case file.

As per statement of Dr. Dharmesh Kumar Sachdeva, Accountant (PW8), the income of appellant for the year 1998-99 was Rs. 6,35,000/-. The accident had taken place on 6.7.1998.

In view of law laid down by a Constitution Bench of the Hon'ble Supreme Court in National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, it is to be noted that income of appellant claimant was Rs. 6,35,000/- i.e. Rs. 52,916/- per month. Therefore, loss of income for four months, during which he remained confined to bed, comes to Rs. 2,11,664/- (Rs. 52916 x 4). Regarding disability, Tribunal has awarded a sum of Rs. 1,00,000/- without mentioning ground on which same is granted. The evidence led before the Tribunal shows that there was permanent disability to the extent of 20% on account of mal union of metatarsale of right foot and right side radial nerve. Appellant also suffered shortening of right arm to the extent of 2 inches. The right arm had become very weak and he cannot even lift 2 kg. of weight

with that arm. His right leg is stated to have gone permanently weak. His left foot has shortened by 1 inch. For 20% permanent disability of right arm and shortening of right arm by 2 inches and left foot by 1 inch, appellant must be facing difficulty in performing day to day duties and it is likely to affect his performance and consequential fall in income which is taken to be 20% which comes to Rs. 10,583/- PM. Compensation is granted for next seven years, which comes to Rs. 8,88,972/- i.e. Rs. 10,583x12x7. The total amount of compensation thus comes to Rs. 11,00,636/-. Since compensation on account of loss of income due to disability has been granted, no compensation under the head loss of future prospects is to be granted. The learned counsel for appellant has not disputed compensation granted on account of medical bills and other heads.

In view of forgoing discussion, appeal is allowed. The compensation awarded to appellant is enhanced from Rs. 3,50,950/- to Rs. 11,00,636/- and 6% per annum interest is allowed on enhanced compensation from the date of filing of claim petition till payment.

(KULDIP SINGH)
JUDGE

5.4.2019
sjks

Whether speaking order	:	Yes / No
Whether reportable	:	Yes / No