

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

FAO No.2956 of 2005
Date of decision : 22.07.2019

Suresh Kumar

..... Appellant

versus

Satish and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.Shvetanshu Goel, Advocate
 for Mr.J.K.Goel, Advocate for the appellant.

Mr.R.K.Bashamboo, Advocate for respondent No.4- insurance
company.

KULDIP SINGH, J. (ORAL)

Since insurance company has been held liable to pay the
compensation, service on respondents No. 1 to 3 is dispensed with.

Claimant-appellant Suresh Kumar, aged 34 years, a truck driver
by profession, while driving truck No.HR-46-2000 was hit by the offending
tractor bearing no. HR-14A-3053. As a result of the accident the truck fell
into a drain. Claimant-appellant was shifted to PGI, Rohtak on the same day
where he remained admitted up to 13.11.2001. During this period his left
leg was amputated. Another operation of the left leg was conducted on
10.11.2001. It is stated that the claimant is the sole bread earner of the
family. A criminal case was registered against respondent No.1-tractor
driver. Claimant was awarded Rs. 32,369/- for the medical bills and
considering that he suffered 70% disability as per disability certificate,
calculated the loss of income for 15 years taking the income to be

Rs. 3000/-per month and allowed compensation of Rs.3,78,000/- in addition to the medical bills. Total compensation of Rs. 4,10,369/- was awarded. Since the offending vehicle was insured with respondent No.4- insurance company, the same was held liable to pay the compensation.

By way of the present appeal the claimant-appellant seeks enhancement of the compensation.

I have heard learned counsel for the parties and gone through the record with the help of their assistance.

Undoubtedly in this case the claimant who was a truck driver was injured in the accident and his left leg was amputated. He was 34 years of age at the time of accident. As per disability certificate 70% disability was suffered qua the whole body.

Learned counsel for the appellant has argued that since the appellant was truck driver by profession, his functional disability will be 100%. Learned counsel relied upon the law laid down by the apex Court in **G.Dhanasekar vs. M.D.Metropolitan Transport Corporation Ltd., 2014(1) RCR(Civil) 993** wherein, in the case of an actor, on account of injury on the face and leg, the disability was held to be 100%. I am of the view that the ratio of the said authority applies with full force to the facts of the present case where the appellant is a truck driver and his left leg has been amputated as a result of which he will not be able to work as a driver. He is not expert in any other profession. Therefore, his functional disability should be 100% and the Tribunal erred in allowing disability only to the extent of 70% qua whole body. The Tribunal also applied the multiplier of

'15' whereas, as per the age of the appellant multiplier of '16' should have been applied. Considering that the income of the appellant in the year 2001 being a skilled worker should be around Rs. 3000/- per month, 40% of the same i.e. Rs. 1200/- is added on account of future prospects. Thus, the total income of the appellant comes to Rs. 3000+ 1200 = Rs.4200/- per month. The amount of compensation comes to Rs. 8,06,400/-(4200x12x16). The medical bills of Rs. 32,369/- as allowed by the Tribunal are affirmed. Rs. 1,00,000/- on account of loss of enjoyment and amenities of life are also allowed. Rs.50,000/-on account of artificial limb and replacement thereof after three years are also allowed. The total amount of compensation comes to Rs. 9,88,769/-. Interest at the rate of 7.5% p.a. on the enhanced amount of compensation is also allowed from the date of filing of the claim petition till realisation.

Appeal is accordingly allowed.

(KULDIP SINGH)
JUDGE

22.07.2019
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No