

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

-.-

FAO 5459 of 2011 (O&M)

Date of decision: 14.11.2019

Sanjeev

.....Appellant

Versus

Rajesh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. R S Malik, Advocate
for the appellant

Mr. Sandeep Suri, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

CM 20269 CII of 2011

Allowed as prayed for.

CM 15114 CII and 26420 CII of 2018

Allowed as prayed for. Annexure A-2 is taken on record subject
to all just exceptions.

Main case

The claimant is in appeal seeking enhancement of
compensation on account of injuries sustained in a motor vehicular accident
that took place on 01.02.2009.

The Tribunal awarded Rs.1,20,000/-, detailed hereunder:-

-Pain and sufferings	Rs.30,000/-
-Transportation	Rs.8,000/-

-Loss of income	Rs.70,000/-
-Nutritious diet	Rs.6,000/-
-Attendant charges	Rs.6,000/-

Counsel for the appellant would argue that in terms of order dated 28.09.2017 passed by this Court, the appellant examined Dr. Adarsh Kumar, Senior Resident, AIIMS, Delhi (PW4) and disability certificate is marked as Ex.PW4/A. It is further argued that as per disability certificate, the appellant suffered 75% visual disability, non curable. He would pray that adequate compensation may be allowed in respect of loss of income and amenities of life qua visual impairment. It has further been argued that compensation allowed under various heads is inadequate and merits enhancement.

Counsel representing the insurance company, on the contrary, would argue that the appellant has been adequately compensated by the Tribunal. He has not suffered any future loss of income as he continued to be in government service as teacher in Delhi State despite incurring visual disability. There is no evidence on record to prove that on account of disability, he has suffered in his career as a government teacher

I have heard counsel for the parties, perused the paper book and records as well as report submitted by the Tribunal, in pursuance of order dated 28.09.2017 passed by this Court.

There is no justification for allowing additional compensation under the heads for which compensation has been allowed by the Tribunal. As has been rightly argued by counsel for the insurance company that the appellant has not suffered future loss of income as he was a government

teacher in Delhi State and continued to be so despite sustaining injuries rendering him visually disable.

The appellant examined Dr. Adarsh Kumar, Senior Resident, AIIMS Delhi but he was not one of the members of the Medical Board that issued certificate Ex.PW4/A, therefore, the insurance company was denied an opportunity to bring forth any such fact, if disability is result of injuries sustained in the accident or how this disability can be considered for assessing functional disability. In the given circumstances, interest of justice would be served, if the appellant is awarded Rs.40,000/- towards loss of amenities of life qua visual disability. The additional amount shall carry interest @ 7% per annum from the date of petition till realization.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

14.11.2019
Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No