

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2667 of 2012 (O&M)

Date of Decision: 07.01.2019

Phool Singh

.....Appellant

Vs.

Krishan Kumar and Anr.

.....Respondents

CORAM: HON'BLE MR.JUSTICE DR. RAVI RANJAN

Present:- Mr.S.K.Tripathi, Advocate, for the appellant.

Mr.Sudhir Rana, Advocate, for respondent No.2.

DR. RAVI RANJAN, J.

I have heard learned counsel for the appellant as well as respondent No.2 (owner of the offending vehicle). So far as respondent No.1 (driver of the offending vehicle) is concerned, it appears as per order dated 11.01.2013 that since he has refused to accept the notice, it has already been noted that the same would be accepted as valid service.

This appeal has been filed by the claimants against the driver and the owner i.e. respondents No.1 and 2 respectively, for enhancement of the compensation against the Award dated 26.07.2011 passed by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as “the Tribunal”).

It is contended that though the injured has received 21% of permanent disability, he has earlier been granted Rs.25,000/- on this account, Rs.1,06,474/- for medical expenses and Rs 4000/- for pain and suffering, attendant and special diet etc.

A perusal of the record shows that appellant permanent disabled upto the extent of 21% as his both the legs were fractured and he remained in hospital for about 1 month and 6 days. Thereafter, it also appears from the record that he had recovered and it has also written in the concerned Exhibit P-98 that the position is likely to be improved in due course. In such a situation, it cannot be the plea of the appellant that permanent disability led to functional disability. It has been brought to the notice that his income was assessed at Rs.3600/- per month being skilled labourer. It is admitted by both the sides that minimum rate of wages in the State of Haryana of the concerned period even for an unskilled person was Rs.3840/-. However, In my opinion, since the Tribunal has taken him to be skilled person, he should have been considered for minimum wages equivalent to skilled labour i.e. come to Rs.3970/-. That apart, it also appears that the compensation on account of loss of amenities have also not been discussed in the Award passed by the Tribunal. Accordingly, in view of the disability certificate of the appellant, the compensation on account of loss of amenities is required to be assessed. I am of the opinion that if the income of Rs.3970/- per month is multiplied by 12 (for one year) that would be reasonable amount under the head of loss of amenities. The Award is accordingly recalculated as under :

Sr.No.	Heads of compensation	Amount
1	Medical bills	Rs.1,06,474/-
2.	Permanent disability	Rs.50,000/-
3.	Pain and suffering	Rs.4,000/-
4.	Loss of amenities Rs.3970/- X 12	Rs.47,640/-
	Total	Rs.2,08,114/-
	Enhanced amount of compensation	Rs.2,08,114/- ---- Rs.1,35,474/-= Rs.72,640/-

Before parting with the matter, I must record that learned counsel for the respondent, without challenging the order and without filing the cross appeal, has stated that the original disability certificate was not proved before the Tribunal. This limb of argument is noted only to be rejected for the reason that he has not filed any cross-objection or any appeal and further that he has not been able to show from the record that at the time of placing such documents on record any objection was raised by the respondent.

In the result, appeal stands allowed to the extent as indicated above. Enhanced amount shall carry interest @ 9% from the date of filing the claim petition till its realization. The parties have not raised any other issue before this Court apart from the issues discussed above.

(DR. RAVI RANJAN)
JUDGE

07.01.2019

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No