

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

**1. FAO No.5085 of 2012 (O&M)
Date of Decision:21.02.2019**

RavinderAppellant

Versus

Sanjay and others ...Respondents

2. **FAO No.5084 of 2012 (O&M)**
Date of Decision:21.02.2019

Inder SinghAppellant

Versus

Sanjay and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Verma, Advocate,
for the appellant.

Mr.Subhash Goyal, Advocate,
for respondent No.3-Insurance Co.

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ANIL KSHETARPAL, J.(ORAL)

By this order, FAO No.5084 and 5085 of 2012 shall stand disposed of.

Claimant is in the appeal seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'The Tribunal').

During the pendency of the appeal, application for additional evidence was filed in order to produce fresh disability certificate. Application was allowed and the parties were permitted to lead evidence before the Tribunal. A report has been received after recording evidence.

Appellant had suffered fracture on right upper limb and right lower limb. The Motor Accident Claims Tribunal, Gurgaon had awarded the amount under following heads:-

Medical expenses	Rs.2,06,460/-
Pain and Sufferings	Rs.30,000/-
Pain & Suffering for undergoing operations.	Rs.10,000/-
Loss of Income	Rs.72,000/-
Attendant Charges	Rs.06,000/-
Permanent disability	Rs.60,000/-
Misc. expenses	Rs.5,540/-
<u>Total</u>	<u>Rs.3,90,000/-</u>

Learned counsel for the appellant has submitted that disability is now 90%, permanent physical impairment which is not likely to improve. Hence, he submitted that the amount awarded on account of permanent disability is on the lower side. He further submitted that pain and suffering is a continuous process and appellant who suffered injuries at the young age of 35 years will have to live with the same for his entire life.

On the other hand, learned counsel appearing for the Insurance Company has drawn attention of the Court to cross-examination of the Doctor who was member of the medical board wherein he has admitted that the disability pertains to an upper limb and not for the whole body. He has further admitted that the fractures are already healed.

Keeping in view the submissions made by the learned counsel for the appellant and also keeping in view the fact that the appellant is in Government service working as Diesel Engine Starter and he has not suffered any loss of income on account of injury. This Court is called upon to decide the appropriate compensation.

However, after retirement from service appellant is likely to suffer on account of incapacity to work.

Keeping in view the aforesaid facts, this Court is of the considered view that increase in compensation required under two heads i.e. under Permanent disability from Rs.60,000/- to Rs.2.00 Lakh. Hence, there would be increase of Rs.1,40,000/- on account of permanent disability and on account of Pain and Suffering, the compensation would increase to Rs.80,000/- from Rs.40,000/-. Thus the total increase comes to Rs.1,80,000/-.

Increased compensation i.e. Rs.1,80,000/- shall be payable alongwith interest @ 7.5% from the date of filing of the claim petition till its realization.

FAO No.5085 of 2012

In this case appellant has not suffered any permanent disablement. When the accident took place, the appellant was studying who remained admitted in hospital for 08 days. He suffered fracture on right femur. It has come in evidence that the appellant suffered loss of one academic year.

Keeping in view the aforesaid facts, the compensation awarded by the Motor Accident Claims Tribunal, Gurgaon i.e. Rs.1,90,000/- is increased to Rs.2,30,000/-. The increased amount would be under the heads “Pain and Suffering” and “loss of notional income”. On account of “pain and suffering”, the amount would stand increased to Rs.15,000/- as there was loss of one academic year and on account of “loss of notional income” another amount of Rs.25,000/- shall be payable.

Hence, the enhanced compensation i.e. Rs.40,000/- shall be payable along with interest @ 7.5% from the date of filing of the claim petition till its realization.

(ANIL KSHETARPAL)
JUDGE

21.02.2019
raman

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