

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

FAO No. 10017 of 2014(O&M)

Date of decision: 14.1.2019

RajanAppellant

VERSUS

Jaimal Singh and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Kamaldeep Kaur, Advocate Amicus Curiae.

Mr. Prashant Bansal, Advocate for the appellant.

Mr. Barjinder Singh, Advocate for
Mr. Rakesh Gupta, Advocate for respondent No.1.

None for respondent No.2.

REKHA MITTAL, J. (Oral)

CM No.27702-CII of 2014

Prayer in this application is for condonation of delay of 3 days
in re-filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of Mr. Prashant Bansal, counsel for the appellant, the application
is allowed and delay of 3 days in re-filing the appeal stands condoned.

Disposed of accordingly.

CM No.27701-CII of 2014

Prayer in this application is for condonation of delay of 484
days in filing the appeal.

Heard.

In view of averments made in the application, the same is allowed and delay of 484 days in filing the appeal stands condoned, subject to the condition that in case the appellant succeeds in appeal, he will forgo interest for the period of delay.

Disposed of accordingly.

FAO No.10017 of 2014

The claimant is in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') in respect of injuries sustained by him in a motor vehicular accident that took place on 20.09.2010.

The Tribunal has assessed compensation of Rs.1,98,956/- detailed hereunder:-

Medical expenses	Rs.63,956/-
Pain and suffering	Rs.40,000/-
Loss for impairment of day to day Functioning due to 15% permanent Disability	Rs.50,000/-
Transportation charges	Rs.5,000/-
Special diet	Rs.25,000/-
Attendant charges	Rs.15,000/-

The sole submission made by counsel for the appellant is that the injured suffered disability to the extent of 15% but the Tribunal has awarded a paltry sum of Rs.50,000/- in respect of permanent disability but without applying multiplier method. It is further argued that adequate compensation may be allowed with regard to disability suffered by the victim, loss of amenities of life and matrimonial prospects.

Counsel for respondent No.1 has supported assessment made by the Tribunal.

There is no representation on behalf of respondent No.2 earlier being represented by a counsel.

Dr. Pardeep Arora, Medical Officer, PHC, Bhadson PW-6 was examined to prove disability to the tune of 15% and disability certificate is Ex.P94. He has deposed that it was a case of fracture right shaft of femur with limitation of motion of right knee joint and permanent disability was assessed to the tune of 15%. In his cross examination, he has stated that disability is for a particular limb i.e. right lower limb. The doctor has not expressed any opinion as to how this disability to lower limb is to be treated for assessing functional disability in the context of avocation of the victim. There is no clear evidence on record with regard to avocation of the victim prior to the occurrence.

Taking a clue from the notification issued by State of Punjab fixing minimum wage coupled with that the victim was 23 years old at the time of occurrence, income of the injured is assessed at Rs.3700/- per month. By assessing functional disability to the extent of 10%, in view of permanent disability to right lower limb, loss of income qua disability is assessed at Rs.79,920/- (Rs.3700/- 12 x 18 x 10%) (additional amount Rs.29,920/-).

Compensation awarded by the Tribunal under various other heads is affirmed. As the Tribunal has shown magnanimity in awarding compensation for pain and suffering, special diet and attendant charges, claimant is not entitle to compensation under additional heads i.e. loss of amenities of life and matrimonial prospects. Additional amount of

Rs.29,920/- shall be payable with interest at the rate of 7.5% per annum from the date of petition till realization, except for the period of delay of 484 days in filing the appeal.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

JANUARY 14, 2019

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no