

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

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FAO-1520-2014 (O&M)

Date of decision: 25.02.2019

ARUN KUMAR

... Appellant

Versus

KULWINDER SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Parmod K. Nagpal, Advocate for the appellant.
Mr. Pradeep Goyal, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.5166-CII of 2014

Prayer in this application is for condonation of delay of 131 days in filing the appeal.

In view of averments made in the application supported by an affidavit of the appellant coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 131 days in filing the appeal is condoned subject to the condition that the claimant shall forgo interest for the period of delay, in case compensation is enhanced.

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 03.10.2011.

The Tribunal has awarded Rs.4,70,000/-, detailed hereunder:-

1. Permanent disability and future diminution of earnings	Rs.3,24,000/-
2. Medicine bills	Rs.68,000/-
3. Pain and sufferings	Rs.50,000/-
4. Loss of earnings	Rs.20,000/-
5. Attendant charges	Rs.4000/-
6. Special diet	Rs.4000/-

Counsel for the appellant would argue that compensation allowed by the Tribunal under various heads is grossly inadequate and needs enhancement. To substantiate his contention, it is argued that the Tribunal has assessed income of the victim by treating him as a casual labour but

assessed loss of future earning capacity only to the extent of 33% in a case of amputation of left arm of the appellant.

Counsel representing the insurance company, on the contrary, would argue that disability suffered by the victim is qua particular limb and the Tribunal has rightly applied future earning loss to the extent of 33%.

There is no dispute that the victim has suffered disability of left upper limb due to amputation of arm. The Tribunal has assessed loss of future earning by assessing his income @ Rs.4500/- per month, treating him as a casual labour. When the case is examined from the point of view of the victim being a casual labour who has suffered amputation of left arm, functional disability in the given circumstances would be taken as 60%. Accordingly, loss of future income is calculated at Rs.5,83,200/- (4500 x 12 x 18 x 60%). The claimant is entitle to additional amount of Rs.2,59,200/- under the head 'future loss of earning'.

The injured remained hospitalised from 06.10.2011 till 17.10.2011 as reflected in the discharge summary Ex.P3. The Tribunal has awarded a sum of Rs.50,000/- on account of pain and sufferings and the same is affirmed. Medical reimbursement to the tune of Rs.68,000/- allowed by the Tribunal is based upon documentary evidence and needs no further examination. Claimant is awarded a sum of Rs.50,000/- for loss of amenities of life and matrimonial prospects. Compensation of Rs.8000/- awarded by the Tribunal for attendant charges and special diet etc. is enhanced to Rs.15,000/- (additional amount of Rs.7000/-). In this manner, claimant shall be entitle to additional amount of Rs.2,96,200/- (7,66,200 – 4,70,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay. The rate of interest allowed by the Tribunal is enhanced to 7.5% per annum on the amount of compensation of Rs.4,70,000/- awarded by the Tribunal.

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

25.02.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No