

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

FAO No.50 of 2014 (O&M)

Date of decision : 31.01.2019

Sandeep Kumar

...Appellant

Versus

Pitambar Giri and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manoj Kumar, Advocate for the appellant.

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

ANIL KSHETARPAL, J. (ORAL)

CM No.50-CII of 2014

For the reasons stated in the application, which is duly supported by an affidavit, delay of 235 days in filing the present appeal is condoned.

Application is allowed.

Main case

Claimant-Injured is in the appeal seeking enhancement of the compensation. Accident took place on 13.07.2010.

Appellant suffered dislocation of right acetabulum. He was operated twice to correct dislocation. Acetabulum means concave surface of the pelvis. The Motor Accident Claims Tribunal has awarded ₹80,008/- on account of medical reimbursement. As per Medical Board, 20% was the permanent disability which was suffered by the appellant in relation to the lower limb. Learned Motor Accident Claims Tribunal reduced it to 2% with regard to whole body on the statement of Umesh Modi who has stated that claimant can walk and carry on most of his daily activities. However, complete statement of Doctor who has been examined, has not been referred to. He has

stated that there is difficulty in squatting and sitting cross-legged due to stiffness of right hip with sciatic neuralgia. The appellant is an Air Conditioning Mechanic (Professional). Thus, the Motor Accident Claims Tribunal has erred in reducing the permanent disability qua whole body to 2% only. Keeping in view the evidence which has been discussed by the Motor Accident Claims Tribunal, functional disability should have been 10% and not 2%, keeping in view the fact that the Air Conditioning Mechanic is to do his most of job while moving around and whenever he is repairing the air conditioner, he has to sit constantly for a longer time. Thus, loss of income on account of functional disability is being calculated by assessing the functional disability at 10%.

The Motor Accident Claims Tribunal has not awarded any amount either on account of pain and suffering or future medical expenses. The appellant was a young man of 23 years who was involved in unfortunate accident. Keeping in view the aforesaid facts on account of pain and suffering, appellant shall be entitled to ₹25,000/- whereas on account of future medical expenses, he will be entitled to equivalent amount. Keeping in view the aforesaid facts, the compensation payable is re-calculated as under:-

Annual Income	₹62,400/-
Disability 10%	₹6240/- (Annual Loss)
Multiplier = 18	₹6240/- x 18 = ₹1,12,320/-
Medical	(+) ₹80,008/-
Pain & Suffering	(+) ₹25,000/-
Future Medical	(+) ₹25,000/-
Total	₹2,42,328/-
Awarded enhancement	(-) ₹1,02,472/-
Enhanced amount	₹1,39,856/-

Enhanced amount of compensation i.e. ₹1,39,856/- shall be payable alongwith interest @ 7.5% p.a. from the date of filing the claim petition till realization.

In view of what has been observed above, the present appeal is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

31.01.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No