

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

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FAO-5683-2014 (O&M)
Date of Decision : 04.09.2019

Balbir Singh

.... Appellant

Versus

Avtar Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Ms. Ekta Thakur, Advocate
for the appellant.

Mr.Rahul Pathania, Advocate for
Mr. R.C.Kapoor, Advocate
for respondent No.3.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, the claimants have sought enhancement of compensation by modifying the impugned award dated 05.05.2014 passed by Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short- 'the Tribunal').

Briefly, on 22.02.2012, appellant suffered grievous injuries in a motor vehicular accident caused by respondent No.1, while driving offending truck trailer bearing registration No.PB-11-AE-9025. Resultantly, he filed a claim petition under Section 166 of the Motor Vehicles Act, (for short, 'the Act') claiming compensation for injuries, pain and suffering and other miscellaneous expenses spent by him on his treatment before the learned Tribunal.

After holding trial, learned Tribunal awarded compensation of Rs.2,61,100/-.

Learned counsel for the appellant relying upon a decision of Hon'ble Supreme Court in **Raj Kumar vs. Ajay Kumar and another, 2011 ACJ 1** contends that inadequate compensation has been awarded to appellant by the learned Tribunal without considering the fact that 8% permanent disability suffered by the appellant has reduced his earning capacity. According to statement of PW3-Dr.Daljit Singh, the fracture suffered by the appellant had to take 1½ months in healing, but dislocation would remain permanent. After one year, on 25.07.2013, the appellant re-visited hospital for his medical examination. Multiplier method was to be applied for awarding compensation to the appellant, in view of aforesaid permanent disability

On the other hand, learned counsel for the Insurance Company refuting the above submissions, urged that learned Tribunal has already awarded compensation in excess to the appellant.

Having given thoughtful consideration to the rival submissions, this Court is not inclined to differ with the compensation awarded by learned Tribunal to the appellant, inasmuch as, qua only 8% disability suffered by the appellant, learned Tribunal has awarded Rs.1 lakh as compensation to him, besides, Rs.10,000/- for his fracture and Rs.88,040/- towards his medical expenses. That apart, though the fracture of the appellant

was to be healed in 1½ month as per deposition of PW3- Dr.Daljit Singh, but the learned Tribunal has awarded Rs.24,000/- towards loss of income for three months i.e. for double the period @ Rs.8,000/-per month to the appellant. The appellant has also been awarded a consolidated sum of Rs.20,000/- towards special diet, transportation and Rs.10,000/- for his hospitalisation for 7 days in addition to Rs.9,000/- for attendant charges, in this way, total compensation awarded the appellant-claimant is Rs.2,61,100/-.

Considering above quantum of compensation, it is apparent that appellant has adequately been compensated by the Tribunal, rather much more than his entitlement has been awarded to him

There is no dispute in citation **Raj Kumar's case (supra)**, but with due respect, learned Tribunal has not calculated compensation on the basis of per percentage disability, rather has awarded Rs.1 lakh towards 8% permanent disability to the appellant. Therefore, no benefit of the authority referred to above can be given to the appellant.

Dismissed.

September 04, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No