

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

FAO No. 5730 of 2014(O&M)

Date of decision: 23.5.2019

Surender

.....Appellant

VERSUS

Vijay Vats and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ravinder Hooda, Advocate for the appellant.

None for respondent No.1.

Mr. Akash Yadav, Advocate for
Mr. Abhinav Gupta, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

CM No.15861-CII of 2014

Prayer in this application is for condoning delay of 68 days in
filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of Surender, the appellant, the application is allowed. Delay of 68
days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.5730 of 2014

Surender, the injured victim filed this appeal seeking
enhancement of compensation on account of injury sustained in an
occurrence dated 28.03.2010 while working as driver on Truck No.HR-69-
9033 under the employment of respondent No.1. He has been awarded

Rs.3,38,789/- on account of disability with interest @ 12% per annum from expiry of one month from the date of accident till deposit of the awarded amount. Further, he shall be entitle to medical expenses of Rs.2,87,915/- with interest @ 9% per annum from the date of award till deposit of the awarded amount.

Counsel for the appellant would argue that the Commissioner has computed loss of compensation by considering disability of the victim to the extent of 70%. It is further argued that as the injured was a driver of heavy transport vehicle, in view of nature and extent of disability suffered by him, he would no longer be a professional driver much less on a transport vehicle and as such his disability should be treated as 100% and loss of compensation may be computed accordingly.

Counsel representing the insurance company would state that as per certificate issued by the Medical Board, disability has been assessed to the extent of 70% and the Commissioner has rightly assessed compensation by considering disability to that extent.

Perusal of disability certificate Ex. P70 reveals that the appellant has incurred disability on account of amputation of both feet with intensive scarring of both legs and feet with fixed equinus of right ankle, stiffness in left ankle with non-healing ulcer on right foot. The injured appeared before the Court on 13.05.2019, in pursuance of order dated 06.02.2019. In view of nature and extent of disability suffered by the victim, I find merit in contention of the appellant that injured can no longer be a professional driver much less on a transport vehicle. In the given circumstances, his disability for computing loss of compensation would be liable to be taken to the tune of 100%. In this context, reference can be made to judgment of Hon'ble the Supreme Court **Pratap Narain Singh**

Deo Vs. Shrinivas Sabata and another, AIR 1976 SC 222. In the said case, injury was caused to a Carpenter that resulted in amputation of left hand above elbow. Hon'ble the Supreme Court has held that since the work of Carpentry cannot be done with one hand, disablement is total and not partial.

In view of the above, compensation payable to the injured in respect of disability is calculated at Rs.4000 x 201.66 x 60% = Rs.4,83,984/-. The aforesaid amount shall be payable with interest @ 12% per annum from the date of accident till realization, in the light of the judgments of the Hon'ble Supreme Court **Oriental Insurance Company Ltd. Vs. Siby George, 2012(4) RCR (Civil) 617** and **Saberabibi Yakubhai Shaikh and others Vs. National Insurance Company and others, 2014(1) RCR (Civil) 731.** Compensation with regard to reimbursement of medical expenses along with interest is affirmed.

In view of what has been discussed above, appeal is partly allowed in the aforesaid terms.

MAY 23, 2019

'D. Gulati'

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no