

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

223

FAO No.3796 of 2016 (O&M)

Date of decision: 14.02.2019

JAGTAR SINGH

... Appellant

Versus

KRISHAN KUMAR & ORS

... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Ms. Amandeep Kaur, Advocate for the appellant.  
Mr. Abhimanyu Batra, Advocate for the insurance company.

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**REKHA MITTAL, J. (Oral)**

**CM No.12897-CII of 2016**

Prayer in this application is for condonation of delay of 259 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 259 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 30.10.2013.

The Tribunal has awarded Rs.42,652/-, detailed hereunder:-

|                                          |             |
|------------------------------------------|-------------|
| 1. Medical expenses                      | Rs.16,652/- |
| 2. Compensation on account of disability | Rs.10,000/- |
| 3. Pain and sufferings                   | Rs.7000/-   |
| 4. Loss of income                        | Rs.4000/-   |
| 5. Special diet                          | Rs.5000/-   |

Counsel for the appellant would argue that the victim has suffered disability to the extent of 10% in relation to right lower limb but the Tribunal has awarded a sum of Rs.10,000/- under this head. The victim was 21 years old at the time of occurrence and he was doing Diploma from ITI Lalru. No compensation has been allowed for loss of matrimonial prospects. The Tribunal has not awarded any compensation for attendant charges.

Counsel representing the insurance company, on the contrary, would argue that the Tribunal has awarded a sum of Rs.16,652/- for medical expenses though the claimant has produced medical bills worth Rs.11,652/-. The claimant did not examine any witness to prove the disability certificate Ex.P24. The claimant is stated to be a student of ITI Lalru but there is no evidence that at the relevant time, he was working and earning but still the Tribunal has awarded an amount of Rs.4000/- towards loss of income.

The claimant produced on record disability certificate Ex.P24 issued by a medical board. The original disability certificate was produced for perusal and appreciation during the course of hearing. The disability has been assessed by the doctors of Government Medical College and Hospital, Sector 32-B, Chandigarh wherein it is mentioned that the injured has been diagnosed as a post operated case of fracture right tibia distal 1/3<sup>rd</sup> with stiffness right ankle and he is permanently disable by 10% in relation to right lower limb as evaluated according to the manual for orthopedics surgeons in evaluating permanent physical impairment/disability. The disability has been assessed by the doctors of a reputed government institution in discharge of their official duties. Taking into consideration the nature and extent of disability suffered by the victim, he is awarded a sum of Rs.20,000/- under the head. The claimant is awarded Rs.10,000/- for loss of amenities of life and marital prospects. Compensation allowed by the Tribunal under other heads is ordered to be affirmed. The claimant is not entitle to compensation under additional heads in view of the fact that the Tribunal has awarded a sum of Rs.4000/- towards loss of income and Rs.5000/- qua medical expenses, not based upon bills. The additional amount of Rs.20,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay.

The appeal is partly allowed in the aforesaid terms.

14.02.2019

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**(REKHA MITTAL)**  
**JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes / No  
Yes / No