

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

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FAO-5923-2016 (O&M)

Date of decision: 28.11.2019

NIRANJAN SINGH

.. Appellant

Versus

KULDEEP SINGH & ORS

.. Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Raj Kapoor Malik, Advocate for the appellant.
Mr. Rajneesh Malhotra, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 30.03.2014.

The Tribunal awarded Rs.81,000/-, detailed hereunder:-

Medical expenses	Rs.11,000/-
Transportation charges	Rs.10,000/-
Special diet	Rs.10,000/-
Enjoyment of life and pain and sufferings	Rs.50,000/-

Counsel for the appellant would argue that prior to the accident, appellant was working as Conductor and earning overtime and traveling allowance, detailed in salary statement Ex.PA, proved by witness Darshan Singh. It is further argued that claimant has suffered disability to the extent of 15% but the Tribunal has not extended any financial benefit in respect of disability.

Counsel representing the insurance company, on the contrary, would argue that the Tribunal, in view of findings recorded in para 19 of the award, has rightly declined plea of the claimant with regard to loss of income on account of disability.

The Tribunal has noticed that at the time of accident, claimant was getting salary of Rs.32,800/- per month but later he was drawing salary of Rs.35,470/- per month and as such, there is no loss qua monthly salary of the injured. Counsel for the appellant has not denied that the employees of Haryana Roadways appointed as Conductors cannot insist for their posting

as Conductor all the times to come or to say that they cannot be given assignments wherein benefit of overtime is not available. There is no clear evidence on record to prove that on an average, a Conductor performs duty as a Conductor on a bus and can avail benefit of overtime etc. for a particular period. The Tribunal has awarded Rs.50,000/- for loss of amenities of life and pain and sufferings.

The claimant has suffered disability to the extent of 15% but there is no medical opinion as to how this disability can be considered for functional disability. Taking a reasonable and sympathetic view, appellant is awarded additional amount of Rs.25,000/- for financial loss of overtime/TA on account of disability suffered by him. The additional amount shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

28.11.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No