

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

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FAO No.8344 of 2015 (O&M)

Date of decision: 22.07.2019

HARVINDER

... Appellant

Versus

MEGH RAJ SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Akash Sridhar, Advocate for the appellant.
Mr. Vishal Aggarwal, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.26389-CII of 2015

Heard.

Allowed as prayed for. Delay of 24 days in filing the appeal stands condoned.

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 29.04.2014.

The Tribunal awarded Rs.7,10,331/- (rounded off to Rs.7,10,500/-), detailed in para 22 of the award and represented in a tabulated form.

Counsel for the appellant would argue that injury sustained by the victim has rendered him disable to the tune of 11%. The claimant has filed application under Order 41 Rule 27 read with Section 151 CPC seeking permission to produce disability certificate Annexure P1. It is further argued that compensation allowed by the Tribunal for transportation, attendant charges, special diet and pain & sufferings is also on lower side and merits enhancement.

Counsel representing the insurance company, on the contrary, has strongly opposed application for additional evidence with the submission that the same has been filed with a clear intent to fill gaps and lacunae in the case. In addition, it is argued that even if disability certificate is taken into consideration, appellant shall be entitle to negligible increase

in compensation already allowed by the Tribunal.

Original disability certificate produced by counsel for the appellant during the course of hearing is taken on record.

The contention raised by counsel for the insurance company that application for additional evidence has been filed with an intent to fill gaps and lacunae is not meritorious and liable to be rejected. The disability certificate is dated 09.09.2015 and the same has been issued subsequent to decision of claim application by the Tribunal. This apart, strict principles of law of evidence and procedure prescribed in Civil Procedure Code are not applicable to claim proceedings. In this view of the matter, disability certificate can be taken into consideration for the purpose of assessing loss qua disability. In view of nature and extent of disability suffered by the claimant, interest of justice would be served, if he is awarded Rs.22,000/- @ Rs.2000/- per percent qua disability.

The injured remained hospitalized on different occasions detailed in para 19 of the award. The total period of hospitalization is 16 days. In the given circumstances, claimant is awarded additional sum of Rs.5000/- under the heads transportation charges, attendant charges and special diet. In this manner, claimant shall be entitle to additional sum of Rs.27,000/-, payable with interest @ 7.5% per annum from the date of petition till realization.

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

22.07.2019

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No