

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

FAO No. 3145 of 2010(O&M)

Date of decision: 28.2.2020

Mangat Rai

.....Appellant

VERSUS

Jagtar Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ravi Malik, Advocate for the appellant.

Ms. Vandana Malhotra, Advocate for insurance company.

REKHA MITTAL, J. (Oral)

CM No.15259-CII of 2010

Prayer in this application is for condoning delay of 15 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mangat Rai, the appellant, the application is allowed. Delay of 15 days in re-filing the appeal stands condoned.

Disposed of accordingly.

CM No.15260-CII of 2010

Prayer in this application is for condoning delay of 86 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mangat Rai, the appellant, the application is allowed. Delay of 86 days in re-filing the appeal stands condoned.

Disposed of accordingly.

FAO No.3145 of 2010

The claimant is in appeal seeking additional compensation on account of injuries sustained in a motor vehicular accident that took place on 25.12.2007.

The Motor Accidents Claims Tribunal, Ambala (in short 'the Tribunal') awarded Rs.4,03,000/- detailed hereunder:-

Medical expenses	Rs.1,33,000/-
Pain and sufferings	Rs.1,00,000/-
Loss of business for one year	Rs.1,00,000/-
Loss of amenities/enjoyment of life	Rs.50,000/-
Expenses incurred on special diet/ transportation	Rs.10,000/-
Expenses incurred on attendant charges	Rs.10,000/-

The appellant filed an application for additional evidence in respect of additional medical expenses. Vide order dated 05.09.2019 passed by this Court, the Tribunal was directed to send a report after recording evidence of the witnesses to be examined by the claimant in respect of medical expenses. The Tribunal has submitted report in respect of oral and documentary evidence adduced in pursuance of order dated 05.09.2019. It has been held that the appellant/claimant produced documents in respect of medical expenses to the tune of Rs.4,32,608/-.

The insurance company has not filed any objections against report submitted by the Tribunal. Counsel for the insurance company has not made any submissions to say something about the report and medical expenses to the tune of Rs.4,32,608/- on the basis of documents marked as exhibits. That being so, the appellant shall be entitled to additional compensation of Rs.4,32,608/- towards medical expenses.

The claimant examined Dr. Vikas Paul PW-13 to prove disability and disability certificate Ex.P144. As per testimony of Dr. Vikas Paul and disability certificate Ex.P144, disability has been assessed to the extent of 35%. The disability is in respect of lower right limb. The doctor has opined that there are no chances of improvement of disability with physiotherapy. There is no opinion given by the doctor as to how this disability can be considered for assessing functional disability. The claimant did not appear in the witness box when the witnesses were examined in pursuance of directions issued by this Court vide order dated 05.09.2019. In the given circumstances, no clear picture is emerging as to how the disability can be considered for computing future loss of income.

Hon'ble the Supreme Court in **R.D. Hattangadi Vs. M/s Pest Control (India) Pvt. Ltd., AIR 1995 (SC) 755** had held that in injury cases, compensation can be assessed on the basis of some amount of hypothesis, guess work, sympathy etc. In view of the above, interest of justice would be served if claimant is awarded Rs.1,00,000/- in respect of disability to the extent of 35%.

Taking into consideration the period of treatment, claimant is awarded additional amount of Rs.15,000/- towards transportation, attendant charges and special diet etc.

In view of the above, total compensation is Rs.9,50,608/- and additional amount is Rs.5,47,608/- (Rs.9,50,608/- - Rs.4,03,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realisation.

The appeal is partly allowed in the aforesaid terms.

FEBRUARY 28, 2020	(REKHA MITTAL)
‘D. Gulati’	JUDGE
Whether speaking/reasoned :	yes/no
Whether reportable :	yes/no