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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-6517-2011

Date of Decision: 19.09.2022

SHAMSHER

..... Appellant

Versus

RSRTC AND ANR.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ashish Gupta, Advocate
for the appellant.

JAGMOHAN BANSAL, J. (Oral)

1. The present appeal was listed before this Bench on 12.09.2022 and inspite of notice there was no representation on behalf of the parties, however, today counsel for the appellant is present and there is no representation on behalf of the respondents i.e. Rajasthan State Road Transport Corporation as well driver of the offending vehicle. The present appeal is pending before this Court since 2011 and there is no representation on behalf of respondents, thus, Court is left with no option except to proceed exparte and on the basis of record as well able assistance of counsel for the appellant.

2. The facts emerging from the record are that on 29.06.2008, the appellant was travelling in a bus bearing registration No.RJ-02-P-2044 which is owned by Rajasthan State Road Transport Corporation-respondent No.1. The appellant on account of negligence of driver of the vehicle fell down from the bus and sustained injuries and disability to the

extent of 10%. The appellant remained hospitalized from 03.07.2008 to 07.07.2008 at Vinayak Hospital Bhiwari (Rajasthan). The right hip of the appellant was operated. The appellant after surgery had to undergo regular treatment from aforesaid hospital as well Dhariwal Nursing Home, Palwal. The appellant filed claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of injuries suffered by him. Learned Tribunal vide order dated 29.08.2011 awarded a sum of Rs.80,000/- alongwith interest @ 6% from date of filing of the claim petition. Learned counsel for the appellant contended that appellant had undergone surgery, he is not able to work properly, he cannot move freely and perform his day to day activities. The appellant had suffered permanent disability to the extent of 10%, thus, amount needs to be awarded according to disability. The appellant has been awarded compensation Rs. 80,000/- as lump-sum amount. He had undergone surgery from a private hospital, where he had to spend a good amount apart from expenses on account of day to day medicines and follow up charges.

3. I have perused the record and heard arguments of counsel for the appellant.

4. Concededly, the appellant had suffered 10% permanent disability and learned Tribunal had concluded that driver of the vehicle was responsible for causing injury to the appellant. The dispute lies in the narrow compass qua quantum of compensation. The appellant remained hospitalized from 03.07.2008 to 07.07.2008 and had undergone surgery of right hip on 04.07.2008. The appellant was labourer and it has become difficult for him to go to work. No compensation has been

awarded on account of loss of future enjoyment, pain and suffering and amount awarded as lump-sum appears to be on the lower side. Considering, the totality of facts and circumstances, I feel it appropriate to enhance the amount of compensation from Rs.80,000/- to Rs.1,20,000/-.

5. The appellant is entitled to interest @ 7.5% from the date of filing of claim petition till the date of actual payment. It is made clear that amount already paid would be deducted from claim determined hereinabove.
6. The respondents are directed to make payment within a period of eight weeks from today.
7. The appeal is disposed of in the abovesaid terms.

19.09.2022

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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>