

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

FAO No. 6180 of 2011

Date of decision : 31.10.2012

Ved Parkash

....Appellant

V/s

Gurbaj Singh & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Munish Mittal, Advocate for the appellant.

Mr. Subhash Goyal, Advocate for respondent no. 3.

RAJAN GUPTA J. (ORAL)

Claimant has preferred the instant appeal to impugn the award passed by the tribunal on the limited ground that compensation granted is on the lower side.

Learned counsel for the appellant has submitted that due to disability suffered by the claimant, his income has been reduced by 50%. Accordingly, higher compensation ought to be granted for loss of earning.

Learned counsel appearing for respondent no. 3- insurance company has opposed the plea. He submits that adequate compensation has been granted by the tribunal taking into account all factors.

Heard.

On 05.07.2009, claimant after closing his hair dresser shop was proceeding to his residence on a scooter. At that time, offending car being driven rashly and negligently struck in the

scooter of appellant. Claimant suffered number of injuries including three fractures on the right leg as well as head injuries and injuries of jaw. An FIR was also lodged regarding the accident. Tribunal came to the conclusion that accident was caused due to rash and negligent driving by driver of the offending vehicle. It assessed permanent disability qua the right leg as 11%. The doctor who appeared as PW1 in his cross-examination admitted that disability was not qua the whole body but particular limb and the same will be reduced by 50%. Claimant also submitted that he had suffered disability in respect of intelligence. He, however, lead no evidence to prove this assertion except disability certificate. Claimant himself stepped into the witness box as PW3 and cross-examined by counsel for the respondent. He replied all the questions intelligently. Thus, taking disability as 11%, compensation to the tune of ₹25,000/- was awarded to him. Another sum of ₹18,000/- was awarded for loss of earning and ₹10,000/- for pain and suffering. Under usual heads i.e. transportation, special diet etc. a sum of ₹12,000/- was also awarded. In my considered view adequate compensation has been granted. However, keeping in view that appellant suffered three fractures and had to undergo treatment for considerable period, compensation granted on account of pain and suffering appears to be on lower side. Same deserves to be enhanced by another ₹10,000/-. Compensation on account of transportation and special diet etc. also needs to be enhanced. Claimant is also held entitled to another ₹10,000/- on this account. Thus, total compensation of ₹2,50,000/- shall be payable to the appellant. Appeal is partly allowed and award of the

tribunal is modified to this extent only.

October 31, 2012
Ajay

(RAJAN GUPTA)
JUDGE