

THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3726 of 2012 (O&M)
Date of decision : 19.01.2015

Pankaj Kumar

.....Appellant

Versus

Sat Pal Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. B.S. Dhillon, Advocate
for the appellant

Mr. Pardeep Goyal, Advocate
for respondent No. 4 – Insurance Company

ANITA CHAUDHRY, J.

C.M. No. 15829-CII of 2012

For the reasons mentioned in the application, same is allowed and delay of 56 days in filing the appeal is condoned.

FAO No. 3726 of 2012

This is the claimants appeal seeking enhancement in the award dated 03.02.2011 passed by the Motor Accident Claims Tribunal, Hoshiarpur.

Pankaj was a student of 10+2 class when he met with an accident on 28.06.2006 leaving him disabled to the extent of 80%. He remained admitted in the hospital for seven days. The Tribunal relying on a judgment of this Court awarded ₹ 2,000/- for every

percentage of the disability and calculated the loss at ₹ 1,60,000/-. A sum of ₹ 74,956/- were added which were the actual expenses made on the treatment and hospitalization, another sum of ₹ 15,000/- was added for pain, shock and suffering, rounding it to ₹ 2,50,000/-.

Learned counsel for the appellant contends that the multiplier method should have been used to assess the compensation and the appellant was 20 years old and the minimum wages can be taken for calculating the loss. He further submitted that only a small amount for pain and suffering had been awarded and at least ₹ 1,00,000/- should be awarded for pain and suffering and some amount should be allowed towards special diet and attendant charges.

The submission on the other hand was that the appellant came from a village background and he was not earning much and at the most, a notional income can be taken to calculate the compensation.

The appellant was 20 years old when the the accident occurred. The Medical Officer had found that there was 80% disability due to amputation of the left thigh. The Tribunal failed to assess the functional disability as the disability percentage given by the Medical Officer was of one limb only. The functional disability can be taken at 50%. If the income is taken at ₹ 4,000/- p.m. the loss in terms of money would be ₹ 2,000/- and the annual loss would come to ₹ 24,000/-. Applying the multiplier of 18 the compensation would come to ₹ 4,32,000/-. To this a sum of ₹ 1,00,000/- should be added for pain and suffering, ₹ 50,000/- for special diet, ₹ 1,00,000/- for

attendant charges, making the total to be ₹ 6,82,000/-. The Tribunal had awarded ₹ 2,50,000/- which shall be deducted and the remaining amount of ₹ 4,32,000/- would be paid to the appellant within two months, failing which the appellant would be entitled to this amount with interest @ 6% from the date of filing of the appeal till realization.

The appeal is partly allowed.

19.01.2015

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(ANITA CHAUDHRY)
JUDGE