

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6165 of 2012 (O&M)
Date of Decision:20.01.2015

Mahvish

....Appellant

Versus

Krishan Lal and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. R.S. Mamli, Advocate for the appellant.
Mr. M.B. Jain, Advocate for respondent No.2-
Bharti AXA General Insurance Company Ltd.

NAVITA SINGH, J.

1. The appellant is a minor, who filed the appeal through her father. She was injured in a motor vehicle accident on 10.3.2011 and was permanently disabled in the right lower limb to the extent of 32%. Compensation to the tune of Rs.1,40,821/- was awarded to her including expenses for treatment, pain and suffering and transportation and special diet etc. This amount also included the compensation for disability.

2. Counsel for the appellant argued that the amount awarded to the appellant was much on the lower side because it had come in the statement of the doctor, who issued the disability certificate being a member of the board concerned, that the leg of the girl was shortened and she was permanently disabled to the extent of 32%. It was further argued that for disability alone, the compensation should have been granted adequately.

3. Counsel for the Insurance Company, however, argued that disability was qua the limb only and not qua the whole body. The Tribunal had adequately compensated the appellant.

4. Counsel for the Insurance Company relied on Raj Kumar Vs. Ajay Kumar and another, 2011 ACJ 1, in which case certain principles for assessing

compensation for disability were laid down. However, counsel for the appellant relied on Master Mallikarjun Vs. Divisional Manager, The National Insurance Company Ltd. and another 2013 (4) TAC 1, which was also a judgment passed by Supreme Court in a Special Leave Petition decided subsequently, where an amount of Rs.4,00,000/- was granted for disability upto 60% and an amount of Rs.3,00,000/- for disability between 10 and 30%. In that case, the petition was filed under Section 163-A of the Motor Vehicles Act and yet the amount for disability was awarded as above.

5. The child i.e. the appellant was permanently disabled due to the shortening of her leg resulting in a disablement of limb for the rest of her life and also her marriage prospects are considerably reduced and it may be that she does not get marry at all. As rightly pointed out by her counsel, she was not able to get into sports or any other such activity which required both the lower limb healthy.

6. In view of the facts and circumstances of the case in hand, it is felt that an amount of Rs.3,00,000/- should be awarded to the appellant for the disability and it is ordered accordingly. An amount of Rs.64,000/- already awarded under that head shall stand enhanced to Rs.3,00,000/-.

7. The amount for pain and suffering was given to the extent of 10,000/-, which was also low and it is ordered that the same shall stand enhanced to Rs.50,000/-. The amount already awarded shall stand enhanced by Rs.2,76,000/-. Enhanced amount shall fetch the interest at the rate of 6% per annum.

8. The appeal is allowed in the above said terms.

(NAVITA SINGH)
JUDGE

20.01.2015
Ishwar

Whether to be referred to reporter: Yes