

204.

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

FAO No.75 of 2002 (O&M)

Date of decision:05.04.2016

Amandeep Singh

... Appellant

versus

Karnail Singh and others

.... Respondents

II. FAO No.1893 of 2002 (O&M)

Rachhpal Kaur

... Appellant

versus

Karnail Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. S.S. Virk, Advocate,
for the appellant.

Mr. Ankit Aggarwal, Advocate,
for respondents 2 and 3 in FAO No.75 of 2002.

Mr. D.R. Bansal, Advocate,
for Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. Both the appeals arise out of the same accident that took place on 27.12.1998. The injured claimants were son and mother

respectively. FAO No.75 of 2002 was a case of injury to a male aged 28 years. He suffered a privation of an arm above elbow which was assessed at 80% disability. He had shown medical expenses at ₹20,000/- to have been incurred. The court had provided for attendant charges, special diet and transportation at ₹10,000/-, made a further provision of ₹10,000/- towards pain and suffering and granted ₹1,60,000/- towards disability caused by the amputation. It provided for a further payment of ₹50,000/- towards loss of amenities of life, loss of prospect of marriage and assessed a total compensation of ₹2,50,000/-.

2. The additional evidence is brought to the effect that the person studied further and acquired B.Com. degree. The amputation of an arm that resulted in 80% disability to a graduate need not result necessarily in a similar percentage of earning capacity. I will assume the difficulty caused by him to have resulted in loss of earning capacity at 40% and considering that the accident had taken place in the year 1998 when he was still not earning member, I will make a notional income at ₹15,000/- per annum, apply a 40% disability as resulting in loss of earning capacity and employ a multiplier of 17 to have resulted in loss of earning capacity. If the court was granting ₹1,60,000/- towards disability, it ought to mean that it has absorbed the component of loss of amenities and the Tribunal was not justified in providing for loss of amenities under a

separate head after providing for ₹1,60,000/- for disability. Since I have now provided for loss of earning capacity under a separate head, I will provide for ₹25,000/- towards loss of prospect of marriage and the excess amount shall be absolved in ₹1,60,000/- already provided by the Tribunal. The several heads of claims are reworked and are tabulated as under:-

Date of accident: 27.12.1998			
Age:28			
Period of hospitalization:			
Occupation & income :			
	Heads of Claim	Tribunal	High Court
Sr. No.		Amount ₹	Amount ₹
1.	Loss of income from to		
2.	Medical expenses:		
i)	Medicines	20,000	20,000
ii)	Hospital charges		
iii)	Attendant charges	10,000	10,000
iv	Special diet		
v	Transportation		
3.	Pain & suffering	10,000	50,000
4.	Disability (80%) & compensation	1,60,000	1,60,000
5.	Income as assessed by the Tribunal (a)		15,000
6.	% loss of earning capacity (b) 40%		6,000
7.	Multiplier (c)		17
8.	Loss of earning capacity (axbxc)		1,02,000
9.	Reduction in life expectancy		
10.	Loss of prospect of marriage	50,000	25,000
	Total	2,50,000	3,67,000

There shall be an award of ₹3,67,000/- and the amount in excess of what has been awarded already by the Tribunal shall be payable by the insurer with interest at 7.5% from the date of petition till date of payment.

3. The appeal in FAO No.1893 of 2002 is at the instance of the mother of the claimant whom we have discussed above and she had suffered degloving injury that required a skin grafting. Dr. Khatri who treated her and carried out skin grafting assessed the disability at 33%. She had incurred ₹7,000/- expenses and the court was providing for the same and added ₹5,000/- towards attendant charges, special diet and pain and suffering and provided for ₹63,000/- towards 33% disability. I retain the same for medical expenses and for disability but I will provide separately for special diet and transportation at ₹5,000/- and ₹20,000/- towards pain and suffering. This would mean an additional award of ₹25,000/- which will also attract interest at 7.5% from the date of petition till date of payment. The liability shall be on the insurer as already assessed.

4. Both the appeals are allowed to the above extent.

(K.KANNAN)
JUDGE

05.04.2016
sanjeev