

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

**FAO No.3747 of 2001 (O&M)
Date of decision : 03.03.2016**

Nishant alias Nishu minor son of Jogender (through his father)
.....Appellant

Versus

Rajbir Singh and others
...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Kulvir Narwal, Advocate for appellant.

Mr. R. C. Gupta, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 06.08.2001 passed by learned Motor Accidents Claims Tribunal, Rohtak, (hereinafter called the 'Tribunal') vide which the appellant-claimant Nishant alias Nishu has been awarded the compensation to the tune of Rs.1,25,000/- as compensation on account of the injuries suffered by him in the motor vehicular accident which took place on 01.03.1999.

2. Learned counsel for the claimant contended that the claimant has suffered 30% permanent disability as a result of injuries

suffered by him in this accident. No just compensation has been awarded under the other heads like pain and suffering and enjoyment of life and amenities, adverse effect of the injuries on the marriage prospects and the job prospects, loss of studies, special diet and attendant charges. Thus, he contended that the compensation awarded by the claimant is inadequate.

3. On the other hand Mr. R.C. Gupta, Advocate learned counsel for the respondent-Insurance Company contended that Rs.1,25,000/- has been awarded as compensation to the claimant on account of the injuries suffered by him, which is just and appropriate keeping in view the nature of the injuries suffered by him.

4. I have duly considered the aforesaid contentions.

5. I do not find any substance in the contentions raised by learned counsel for respondent No.3 Insurance Company.

6. The learned Tribunal has awarded the compensation to the tune of Rs.1,25,000/- in lump sum without assessing the compensation under the different heads, which is not the proper way to assess the compensation.

7. This fact is not disputed that claimant Nishu was about 9 years of age at the time of the accident. He has suffered avulsion injury on the right leg with fracture dislocation of right ankle and fracture metatarsal bone of right foot. Claimant has suffered 30% disability on account of shortening of right foot, destruction of distal epiphyseal plate of tibia and bony ankylosis right ankle and deformed toes right foot. The claimant was a child at the time of the accident having no income. In order to assess the compensation on account of permanent disability, we

have to take into consideration his notional income. The accident has taken place in the year 1999, so the notional income of the claimant is taken Rs.2400/- per annum. The claimant has suffered 30% disability, so the annual loss comes to Rs.7200/-. Multiplier of 15 shall be applicable. So, the compensation on account of disability comes to Rs.1,08,000/-.

8. As per the medical bills produced by the claimant a sum of Rs.23,240/- has been spent on treatment and medicines charges. So, the claimant shall be entitled to sum of Rs.23,240/- towards treatment and medicines charges. Claimant has suffered serious injuries in this accident. He remained hospitalised for a long period. Even the skin drafting was done. So, he will be entitled to sum of Rs.40,000/- towards pain and suffering. He will be further entitled to a sum of Rs.10,000/- towards the special diet and attendant charges. He remained under treatment for long period and during this period he has lost his studies. So, he will also be entitled to sum of Rs.10,000/- towards loss of studies. Due to the injuries received in this accident, he has suffered shortening of foot with deformity of toes right foot which will certainly affect his enjoyment of life and amenities, marriage of prospects and employment in armed forces. So, he will be entitled to sum of Rs.1,00,000/- under this head. In this manner total amount comes to Rs.2,91,240/-

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.2,91,240/- from Rs.1,25,000/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate of

interest as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

03.03.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**