

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

FAO No.6203 of 2011.

Date of Decision: 16.03.2016.

Harpreet Singh

....Appellant.

VERSUS

Nand Lal and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Vijay Lath, Advocate for the appellant.

Mr. Ashwani Talwar, Advocate for respondent No.3.

SNEH PRASHAR, J.

By way of this appeal, appellant-claimant Harpreet Singh seeks enhancement of compensation of Rs.2,30,000/- alongwith interest at the rate of 7.5% per annum from the date of filing the petition till realization, awarded to him by learned Motor Accident Claims Tribunal, Rupnagar (for short, "the Tribunal") vide the award dated 07.04.2011 passed in MACT Case No.111 of 14.12.2007 on account of injuries sustained by him in a motor vehicular accident that took place on 15.11.2007.

The submissions made by Mr. Vijay Lath, learned counsel for the appellant and Mr. Ashwani Talwar, learned counsel for respondent No.3-insurance company have been heard and record perused.

The claimant was a minor child aged three years when he suffered injuries in a motor accident as a result of which his left leg above knee was amputated. Learned counsel for the appellant argued that PW5 Dr. Balbir Singh, Civil Surgeon, Ropar proved the disability certificate Ex.PW5/A according to which on examination the disability suffered by the claimant was assessed as 80% due to amputation of his left leg above knee. The appellant-claimant was a small child aged three years and would be suffering the pain and trauma as a consequence to the amputation of the leg throughout his life. He would suffer because of his crippled and limping state. He would also be dealing with loss of enjoyment of amenities of life i.e. loss of prospects of marriage etc. As such, the amount of Rs.1,60,000/- awarded as compensation by learned Tribunal at the rate of Rs.2000/- per percentum of the disability is extremely on lower side. To support his argument, learned counsel relied upon **Sanjay Kumar vs. Ashok Kumar and another, 2014(1) R.C.R. (Civil) 875.**

Conceding that the amount awarded as compensation for the disability suffered by the claimant was inadequate, learned counsel for the respondent-insurance company submitted that on 24.01.2013 during mediation proceedings there was a proposal on behalf of the claimant for a sum of Rs.5,70,000/- over and above a sum of Rs.2,30,000/- awarded by learned Tribunal. At that stage, the respondent-insurance company for some reason could not accept the offer of the claimant but now the said offer of the claimant is acceptable to it.

Needless to say that due to amputation of left leg the disability

suffered by the claimant is permanent. Although the claimant being a small child aged three years was a non earning person but the disability is bound to effect his future earning capacity. The right of choosing a career will be very limited. The proposal for enhancement of the compensation by Rs.5,70,000/- was made on behalf of the claimant. Learned counsel did not agree to the same at this stage but he could not assign any major reason for retracting from the proposal given by him. Otherwise also, in view of facts and circumstances of the case, the accident having occurred in 2011 and the claimant being a non earning person his income if assessed as Rs.3000/- per month i.e. Rs.36,000/- per annum, applying the multiplier of '18' and considering 80% loss in future earning capacity the amount will come to Rs.5,18,400/- and adding to the same some amount for loss of enjoyment of amenities of life the amount will come to Rs.5,70,000/-. As such, the said amount is allowed to the appellant-claimant in addition to the amount of Rs.1,60,000/- already awarded by learned Tribunal for the disability suffered by him. The amount of Rs.50,000/- awarded towards medical expenses and Rs.20,000/- for special diet etc. is adequate and needs no modification.

Accordingly, the appeal filed by the appellant-claimant is partly allowed and the award dated 07.04.2011 passed by learned Tribunal is modified. The appellant-claimant is held entitled to enhanced compensation of Rs.5,70,000/- in addition to the amount of Rs.2,30,000/- already awarded by learned Tribunal. The enhanced amount of compensation shall be deposited by respondent No.3- insurance company

within 45 days from the date of receipt of certified copy of this judgment failing which the appellant-claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing the appeal till realization.

(SNEH PRASHAR)
JUDGE

16.03.2016.
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