

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

FAO-785-2013

Date of decision: 5.5.2016

Vikas Kumar

...Appellant

Versus

Rakesh Kumar Meena and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mrs.Pratibha Yadav, Advocate for the claimant-appellant

Mrs.Shamsher Kaur, Advocate for respondent No.3

SNEH PRASHAR, J.

The present appeal had been filed by claimant-appellant Vikas Kumar seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 7.12.2012, on account of the injuries suffered by him in a motor vehicular accident that occurred on 26.11.2011.

The submissions made by Mrs.Pratibha Yadav, Advocate representing the appellant and Mrs.Shamsher Kaur, Advocate for respondent No.3- Insurance Company have been heard and record perused.

It is submitted on behalf of the appellant that at the time of accident, he was a young boy aged 20 years. The injuries suffered by him have made him disabled to the extent of 80%. His left leg above knee was amputated. Due to amputation of leg, he has lost complete earning capacity and has lost marriage prospects. A meager amount of Rs.13,000/- was

allowed on account of pain and suffering, whereas nothing was allowed on account of transportation and attendant charges.

PW1 Dr.Neeraj Sharma, Columbia Asia Hospital, Gurgaon, who treated the appellant, deposed that the appellant was admitted in the hospital on 26.11.2011 and was discharged on 30.11.2011. He was brought with near complete transection (cut) of left proximal tibia. His above knee amputation was done. PW10 Dr.Himanshu Narang, Medical Officer, General Hospital, Bahadurgarh, who was member of the Board of Doctors which examined the appellant, stated that the appellant was having permanent disability of left lower limb on account of above knee amputation which was assessed as 80%. In his cross-examination though he stated that the disability is qua particular limb but he also deposed that it will not reduce with passage of time, however, with the application of artificial limb, the appellant can perform daily activities of life.

Learned Tribunal considering the law laid down by the Hon'ble Supreme Court in **Raj Kumar vs. Ajay Kumar (2011), SCC 343**, adopted the multiplier method and awarded a sum of Rs.10,37,000/- on account of loss of earnings and also Rs.one lac for loss of enjoyment of amenities of life, which calls for no intervention. Further learned Tribunal awarded a sum of Rs.1,10,000/- on account of medical expenses, special diet etc. and Rs.50,000/- for loss of expectation of life, which is also just and appropriate.

However, as the appellant remained admitted in Columbia Asia Hospital, Gurgaon from 26.11.2011 to 30.11.2011 and his above knee amputation of left leg was done, needless to say that he suffered grave pain

and agony but learned Tribunal awarded a sum of Rs.13,000/- only on that count, which certainly being the lower side, is enhanced to Rs.50,000/-. After discharge from the hospital, the appellant must have taken follow up treatment for expenditure on which a sum of Rs.10,000/- is allowed to him.

Accordingly, the enhanced amount of Rs.47,000/- shall be paid to the appellant within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation.

In the above premises, the present appeal is partly allowed and the impugned award is modified as noticed above.

5.5.2016
gsv

(SNEH PRASHAR)
JUDGE