

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

FAO No. 67 of 2014 (O&M)

Date of decision: 18.02.2016

Arvind Singh Oberoi

... Appellant

versus

Surender Kumar and another

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Malkeet Singh, Advocate for the appellant.

None for the respondents.

K.Kannan, J. (ORAL)

The appeal is for enhancement of claim for compensation for a person whose leg was amputated and assessed as constituting 75% disability. He was a Field Officer in Insurance Company aged 53 years and his income was taken as Rs. 55,000/- by the Tribunal since the income proof adduced was for 2 years after the accident, I shall take the same amount. The Tribunal provided for Rs. 2,00,000/- as compensation in total, make an assessment of Rs. 1,50,000/- for disability 20% for loss of income, Rs. 10,000/- as attendant charges and Rs. 10,000/- as transportation.

The assessment is grossly inadequate and in complete ignorance of the provisions relating to assessment for compensation for injuries. The Tribunal has not followed the principles laid down by the Hon'ble Supreme Court in Raj Kumar Vs. Ajay Kumar 2011 1 SCC

343. If there is an amputation of leg there ought to be also a provision for assessment of loss of earning capacity. It may not be the same as it is possible for the workmen under the Workmen Compensation Act but a person who is retained in service surely loses a prospect of further promotion and the disability to make the work out turn that can allow him the benefit of increase in salary. Hon'ble the Supreme Court in Raj Kumar's case (supra) has actually dealt with this situation and has suggested tha the Court will have due regard to the nature of employment and factor the loss of earning capacity which is proper to the type of employment. The Field Officer in an Insurance Company is inevitably required to be mobile and amputation will bound to cause a serious impediment. I will take the prospect of increase of what is normally possible in a settled employment at 15% as also the loss of earning capacity for the income which he is earning. He has not claimed any hospital charges since it appears to have been reimbursed. There may be requirement for change of prosthesis beyond his period of retirement and I will, therefore, provide for future medical expenses @ Rs. 50,000/-. The various heads of compensation are tabulated as under:

<u>SR. No.</u>	<u>Injury Case</u>		
1.	Date of accident	25.01.2012	
2.	Age	53	
3.	Period of hospitalization	1 month	

4.	Occupation/ Income as claimed in the petition.	Field Officer/55,000/-	
5.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
6.	Loss of Income from: to:	20,000/-	20,000/-
7.	Medical Expenses:		
8.	(i) Medicines		
9.	(ii)Hospital charges		
10	(iii)Attendant charges		10,000/-
11.	(iv)Special diet		
12.	(v)Transportation	10,000/-	10,000/-
13.	Pain and sufferings		1,50,000/-
14.	Disability (75 %) & compensation		1,50,000/-
15.	Income as assessed by Tribunal (a)		55,000/-
16.	15% Loss of earning capacity (b)		8,250 x 12
17.	Multiplier (c)		11
18.	loss of earning capacity (a x b x c)		10, 89,000/-
19.	Reduction in life expectancy		
20.	Loss of prospect of marriage		
21.	Future needs		50,000/-
22.	Total	2,00,000/-	14,79,000

There shall be an award for Rs. 14,79,000/-. The additional amount of interest shall also attract interest @ 9%from the date of

petition till the date of payment.

The appeal is allowed to the above extent.

18.02.2016

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(K.KANNAN)
JUDGE