

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6257 of 2015

Date of Decision.05.01.2016

Bhal Singh

.....Appellant

Vs.

Ravi Talwar and others

.....Respondents

2. FAO No.6258 of 2015

Bahadur Ram alias Bahadar Singh

.....Appellant

Vs.

Ravi Talwar and others

.....Respondents

Present: Mr. Dheeraj Narula, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. Both the appeals are cases of amputation of limbs of persons aged about 22 years and 23 years. They were agriculturists and the Court has provided for compensation adequately for pain and suffering, loss of income and loss of marriage prospects etc. The grievance in the appeal in FAO No.6257 of 2015 is that the Tribunal has not provided any amount separately for disability when he had an amputation that was assessed at causing 75% of disability. 75% disability in an amputation case must also be understood as resulting in 75% loss of earning capacity and the Tribunal has appropriately taken the income at ₹5,000/- and adopted a multiplier of 18 for 75% loss of earning capacity. As far as the

separate head of claim for amenity is concerned, it must be noticed that loss of amenity is really an answer to a disability claim. An amputation that causes a loss of earning capacity causes a person from enjoying some fruits of life which is understood as loss of amenity. The Tribunal has provided for ₹2 lacs as loss of amenities. There cannot be any ground made that apart from loss of amenity some amount should be awarded for loss due to disability. They are synonymous. The counsel's argument is that the Court has not provided for any prospect of increase. If he was an agriculturist and the Tribunal has taken income at an average of ₹5,000/- per month, the Tribunal has provided what was appropriate and there is no error in the manner of assessment made by the Tribunal.

2. There have been several judgments relating to amputation and in *Govind Yadav Vs. New India Insurance Company Limited 2011 (10) SCC 683*, the Court was providing for ₹1,50,000/- for the loss of amenities. In *Sanjay Kumar Vs. Ashok Kumar 2014(5) SCC 330*, the Court was providing ₹1 lac for loss of amenities. In *Syed Sadid etc. Vs. Divisional Manager National Insurance Company Limited 2013(14) SCC 15*, the Supreme Court was providing for ₹75,000/- for loss of amenities. There have been variations on loss of amenities in other cases but there is no clear guideline anywhere as to what would be the compensation payable for non-pecuniary heads. There is a certain latitude of discretion which is possible for Court to apply and if the Tribunal was providing for compensation of ₹2 lacs as loss of amenity, I will take that to be appropriate and I would find no ground for interference on that account.

3. Even an argument that there is nothing provided for future medical expenses will be meaningless, for a future medical expense is pecuniary head of claim for which appropriate evidence must be led. It cannot be a matter of mere inference. The appellants cannot claim any special privileges by reference to judgments where future medical expenses have been provided for. It should be appropriately rooted on an evidence and if the Tribunal has granted compensation of ₹12,92,300/- for agriculturist taking the income at ₹5,000/- and in yet another case similarly situated awarded ₹14,54,130/-, the Tribunal has approached both the cases within the correct legal parameters and I will find no cause for interference in the appeals.

4. Both the appeals are dismissed.

(K. KANNAN)
JUDGE

January 05, 2016
Pankaj*