In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 1915 of 1996
Date of Decision: 26.10.2017

Dr. Subhash Chander Verma ......Appellant

Versus

Shree Ram Dass and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Kuldip Sanwal, Advocate
for the appellant.

Mr. S.K.Yadav, Advocate
for respondent No. 3.

Mr. Deepak Suri, Advocate
for respondents No. 4 to 6.

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ANITA CHAUDHRY, J

This is the claimant's appeal seeking enhancement in the award dated 24.2.1996 passed by the Motor Accident Claims Tribunal, Gurdaspur.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. The appellant has placed on record pleadings and evidence. Counsel for the parties have stated that the matter can be decided on the basis of the award and other available material.

The claimant after passing MBBS in June 1988 was doing a house job in surgery. He was getting Rs. 2400/- per month. The claimant was aiming to become an Orthopedic Surgeon. In the fateful accident, the claimant lost his right arm above the elbow and it had to be amputated. It was claimed that had the accident not occurred, the claimant could have got a government job and would have had better marriage prospects. It was claimed that a sum of Rs. 35,000/- was spent on the treatment.

The Tribunal noted that the claimant had started his own clinic and had done his MD in Pathology and was successfully running his clinic post the accident. It noted that the bills had not been placed on record. Relying upon ***Dharampal Mehran versus State of Haryana and others 1994 ACJ 431*** which was a case of amputation of the right arm with 60% disability to a Mechanical Engineer wherein award of Rs. 2,00,000/- had been passed, the Tribunal ordered the payment of lump-sum amount of Rs. 2,50,000/- which was to be paid jointly and severally by both the insurance companies with interest @ 12% P.A.

The submission on behalf of the appellant is that the amount allowed by the Tribunal is on the lower side and the claimant was getting a stipend of Rs. 2400/- per month at that point of time and the disability was to the extent of 80-85%. The counsel further submits that though the claimant had stated that he was running a clinic but was charging fees of only Rs. 10-12 per patient. It was urged that the multiplier method should have been applied to calculate the loss.

The submission on behalf of the respondents is that there is no loss of income as instead of surgery, the claimant after the accident did his MD in Pathology and was running his clinic and in those days the rates were low and salaries were very less and a labourer could not earn more than Rs. 800/- per month and the claimant had stated that he was getting Rs. 2400/- per month, therefore, the amount allowed though does not give the break up but he had been adequately compensated keeping all the heads and keeping the income of those years into view.

The claimant did not bring any record to show his annual income. He had stated that he was not maintaining any register regarding the income from his medical practice. It had also come on record that he had got married. The argument made on behalf of the appellant was that had he been not handicapped he would have got a life partner who was educated and could work along with him and assist him in his work. Though, it cannot be said that there is loss of income but definitely it can be said that his income would have been more had he been an Orthopedic Surgeon.

I would take the disability at 40% and make the calculation by taking the income at Rs. 2400/- per month and the amount would be Rs. 960 x 12 x 18 = 2,07,360/-. To this, I would add Rs. 25,000/- for loss of marriage prospects, Rs. 50,000/- for loss of amenities, Rs. 10,000/- for attendant charges, Rs. 5,000/- for transportation and Rs. 50,000/- for pain and suffering. Total of this comes to Rs. 3,47,360/-. The Tribunal had allowed Rs. 2,50,000/- which would be deducted and the balance amount i.e. Rs. 97,360/- rounded off to Rs. One lac would be paid to the claimant with interest @ 6% from January 1997. The enhanced amount would be paid in the same proportion by both the insurance companies as ordered by the Tribunal.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

October 26, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No