

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

**FAO No.3380 of 1999 (O&M)
Date of Decision: May 16, 2017**

Pankaj Kapoor

..Appellant(s)

Versus

Makhan Lal and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate
for the appellant.

Mr. V.K. Garg, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 05.08.1999, passed by the Motor Accident Claims Tribunal, Ambala.

The record of this file had been burnt in the fire incident which had taken place in 2011. Only the copy of the award could be reconstructed. None of the parties could give any material for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

Pankaj was a student of B.A. 3rd year when he met with an accident on 20.05.1998. He suffered injuries on the right leg, right

arm and underwent numerous operations. K.nailing was done for the right thigh, the right femur and right arm. He was discharged from the hospital on 09.01.1999. The claimant was 24 years old and was stated to be working as a medical representative and earning Rs.5,000/- per month. It was claimed that he remained on bed for almost a year.

The Tribunal considered the large number of documents which were placed on record and noted that the claimant would have spent at least 2.5 lacs on his medical treatment medicines and transportation etc. It noted that there was a disability to the extent of 80% and considering the disability certificate Ex. P-5, it considered Rs.2,000/- per month as the loss in income and applying the multiplier of 17 the compensation was calculated and the following amount was awarded:-

Compensation for loss of income in future	Rs.4,08,000/-
Compensation for medicines, special diet, transportation and attendant	Rs.2,50,000/-
Compensation for loss of income for one year and for loss of marriage prospects	Rs.1,25,000/-
Compensation for artificial limb	Rs.37,000/-
Total	Rs.8,20,000/-

An award of Rs.8,20,000/- was passed, which was allowed with interest @ 12%.

The submission made on behalf of the appellant is that the Tribunal should have awarded compensation on each head separately and since there was disability an addition towards future prospects should have been made. It was urged that separate amount

should have been allowed for the attendant, transportation and for loss of marriage prospects, for the artificial limb and multiplier of 18 should have been applied.

The submission on the other hand was that there was absolutely no evidence that the claimant was a medical representative and in the claim petition it was only disclosed that he was undergoing training for being a medical representative and the minimum wages in 1998 were around Rs.1,800/- per month and the income could not be taken as Rs.5000/- per month.

A reading of the award shows that the claimant underwent a number of operations and later his right leg was amputated. The claimant had to undergo a lot of trauma, he was confined to bed and was admitted in the hospital for a year. The disability certificate was proved by Dr. R.C. Jindal PW-2. Pankaj Kapoor PW-3 made a guess work and when he had stated that the claimant would have at least spent Rs.4,50,000/- for his treatment, however, the bills were for a lesser amount. The Tribunal had considered a lump sum amount and had awarded Rs.2.5 lacs on the head of cost of medicines, special diet, transportation and attendant charges. The file had been lost in the fire, therefore, the bills are not available nor the appellant has been able to furnish the copy to see the number of bills and the amount. No evidence with respect to the income had been led. It was only stated that the claimant was undergoing training to become a medical representative. The

minimum wages in 1998 were Rs.1,800/- per month. Therefore, taking a little higher amount and considering the salaries of 1998, the income can be taken as Rs.2,500/- per month. As it is the case of amputation, the disability is taken as 80%. An addition of 50% has to be made in the income towards future prospects and the income would be Rs.3,750/- per month. If the calculations are made, the amount towards disability would be Rs.3,750/- x 12 x 18 = Rs.8,10,000/-. The compensation that was payable would be as follows:-

Compensation for Disability	: Rs.8,10,000/-
Compensation for pain and sufferings	: Rs.1,00,000/-
Compensation for loss of marriage prospects	: Rs.1,00,000/-
Compensation for transportation	: Rs.50,000/-
Compensation for loss of income for one year (2500 x 12)	: Rs.30,000/-
Compensation for amount spent on purchase of medicines	: Rs.2,50,000/-
Compensation for artificial limb	: Rs.37,000/-
Total	: Rs.13,77,000/-

The Tribunal had allowed Rs.8,20,000/-, which would be deducted and the remaining amount of Rs.5,57,000/- would be payable to the appellant with interest @ 6% from September, 1999.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

May 16, 2017
sunil

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No