

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

FAO No.1243 of 2001

Date of Decision.28.07.2017

Som Nath son of Shri Nanak Ram

.....Appellant

Vs

Amrit Lal alias Amrit Pal and others

.....Respondents

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

Mr. Gagandeep Singh, Advocate for
Mr. A.S. Manaise, Advocate
for respondent No.1.

Mr. Vinod Gupta, Advocate
for respondent No.2-insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal has been filed for enhancement of compensation for injuries suffered in a motor accident that took place on 26.12.1998. The claimant aged 40 years was a Rikshaw Puller. He was travelling in a three wheeler bearing registration No.HR-37/9357 which turned turtle. The injured suffered fracture on the left femur with crush injury and remained hospitalized from 26.12.1998 to 14.1.1999. The permanent disability was assessed as 30%.

The Tribunal while assessing the compensation granted ₹16,300/- as the amount spent on doctor's fee, ₹5000/- on account of medicines, ₹5000/- towards pain and suffering, ₹5000/- for special diet and ₹21,600/- on account of loss of income, thus, in total awarded a compensation of ₹53,000/-.

Mr. Atul Gaur, learned counsel appearing on behalf of the appellant submits that the Tribunal has assessed a very meager sum for pain and suffering, much less, did not provide anything for future loss of income, attendant charges and transportation. Moreover, the amount for special diet is also on lesser side, thus, the award is required to be modified.

On the contrary, Mr. Gagandeep Singh and Mr. Vinod Gupta, learned counsel appearing for respondent No.1 and insurance company respectively submits that there is nothing wrong in the award passed by the Tribunal. All the heads of claim are assessed appropriately and there is no scope for enhancement, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the appellant, appraised the paper book and of the view that the compensation is required to be re-assessed. I will provide ₹20,000/- more towards pain and suffering and loss of amenities of life and ₹5000/- towards attendant charges and transportation. The injured was stated to be a Rickshaw Puller and the fracture of femur with crush injury would definitely have affected his earning capacity, therefore, I will take the 30% permanent disability as 30% functional disability. The Tribunal took the income of the deceased as ₹2400/- per month while assessing the loss of income for nine months. I will retain the same and 30% of the same would come to ₹720/- per month. I will adopt a multiplier of 15 suitable to the age of the injured and assess the loss of future income at ₹1,29,600/-.

In total, the appellant shall be entitled to a sum of ₹1,54,600/- over and above of what has already been assessed by the Tribunal. This amount shall also attract interest @6% from the date of filing of the appeal till realization. The liability shall remain the same as fixed by the Tribunal.

The award stands modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

July 28, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No