

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

FAO-387-2008 (O&M)
Date of decision: 27.09.2017

RAVINDER KUMAR

...Appellant

Versus

SANDEEP OBEROI AND ORS.

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashok Jindal, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the respondent-Insurance Company.

REKHA MITTAL, J. (Oral)

The injured claimant is in appeal seeking enhancement of compensation in regard to injuries sustained by him in a motor vehicular accident that took place on 23.04.2006.

The Tribunal awarded an amount of Rs.85,000/- under the following heads:-

1. Expenses on medical treatment Rs.39,000/-
2. Loss of future income qua disability Rs.36,000/-
3. Pain and sufferings Rs.10,000/-

Counsel for the appellant has submitted that compensation awarded by the Tribunal with regard to loss of future income as well as pain and sufferings is inadequate and liable to be enhanced. Further

submitted that the claimant sustained injuries on 23.04.2006 but he was advised bed rest till 23.10.2006, thus, entitled to loss of income for the period of treatment and recovery. The Tribunal has not awarded any compensation for special diet, transportation, services of an attendant and loss of amenities of life.

Counsel representing the insurance company has supported the assessment made by the Tribunal with the submission that adequate compensation has been awarded on the basis of materials on record. The claimant failed to adduce satisfactory much less tangible evidence on record to prove his plea of running a shop or alleged income from the business, therefore, the Tribunal has rightly assessed income at Rs.2500/- per month. The disability suffered by the victim is only qua right lower limb and not to the whole body, therefore, no increase for loss of future earning is justified.

I have heard counsel for the parties, perused the paper book and the records.

The Tribunal has awarded an amount of Rs.39,000/- towards expenses on medical treatment based upon bills Ex.A12 to A21. Counsel for the claimant has not advanced any argument justifying enhancement under this head.

The claimant raised a plea that he is a shop keeper and earning Rs.15,000/- per month from the business of electronics. He failed to produce any supporting evidence much less documentary to substantiate his

plea that he was running a shop of electronics. He produced on record an income tax return, filed subsequent to the accident in question, therefore, has been rightly ignored by the Tribunal for assessing loss of income. Taking into consideration the minimum wage available to an unskilled person at the relevant time, the Tribunal has rightly assessed income of the victim at Rs.2500/- per month.

The Tribunal has not awarded any compensation for loss of income during the period of treatment and recovery. Dr. Rajesh Badwal, treating doctor of the injured was examined and he deposed that the injured was advised bed rest till 23.10.2006. The claimant is awarded an amount of Rs.15,000/- for loss of income during the period of treatment and recovery.

The claimant examined Dr. Gobind of Civil Hospital, Rampura Phul to prove the disability certificate Ex.AW3/A. Perusal of the disability certificate would reveal that the board assessed disability to the extent of 30% with the following observations:-

— *“Fracture (now healed) R femur treated with C interlocking nail, C stiffness right knee with pain right hip disability is 30% thirty percent.”*

The disability is because of stiffness of right knee with pain in right hip. Under the circumstances, the functional disability assessed by the Tribunal to the extent of 10% for assessing loss of income by adopting multiplier method cannot be faulted with. The Tribunal has applied multiplier of 12 to compute loss of future income. As per age of the victim, admissible multiplier is 15. Loss of future income qua disability is

calculated at Rs.30,000 x 15 x 10/100 = Rs.45,000/-.

The Tribunal has awarded an amount of Rs.10,000/- for pain and sufferings and the same is ordered to be affirmed. The claimant is entitled to an amount of Rs.10,000/- for transportation, special diet, services of an attendant etc. He shall be entitled to another sum of Rs.10,000/- for loss of amenities of life. The total compensation comes to Rs.1,29,000/- and the additional amount is Rs.44,000/-, payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

27.09.2017
ashok

(REKHA MITTAL)
JUDGE

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