

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

FAO No.2343 of 2011

Date of Decision.09.08.2017

Annu son of Shri Karnail Singh

.....Appellant

Vs

Sanjay Kumar and others

.....Respondents

Present: Mr. Munish Mittal, Advocate
for the appellant.

Mr. Pardeep Goyal, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for injuries suffered by the appellant in a motor accident occurred on 14.02.2008. The appellant-claimant was going to Ladwa from his village on motor cycle bearing registration No.HR-05P-4542 driven by one Dharamveer. When they reached near village Kadrabad, a ruck bearing registration No.HP-12A-9084 coming from the opposite side, driven rashly and negligently by respondent No.1, struck against them, resulting into grievous injuries. An FIR bearing No.18 dated 12.02.2008 under Section 279 and 337 IPC was also registered in this regard. The injured aged 22 years was stated to be working as Labourer and earning ₹5000/- per month. He remained hospitalized from 14.02.2008 to 04.03.2008 in the PGIMER, Chandigarh where he was operated upon. On 17.02.2008, his leg was amputated at knee level and debridement. External fixation for fracture of shaft femur was done on 03.03.2008. He was operated again for debridement revision of amputation stump on 27.02.2008. He was assessed to be suffering from

permanent disability to the extent of 75%.

The compensation assessed by the Tribunal is tabulated as under:-

Treatment including medicines	:	₹42,000/-
Permanent disability	:	₹2,10,600/-
Towards artificial limb	:	₹50,000/-
Pain and sufferings and future expenses:		₹15,000/-
Transportation and special diet	:	₹8,000/-
Loss of marriage prospects	:	₹25,000/-
Total	:	₹3,50,600/-

Mr. Mittal, learned counsel for the appellant submits that the Tribunal has grossly erred in taking the disability of the appellant as 50% when there was testimony of PW-5 Dr. Pebam Sudesh, Assistant Professor, Orthopaedics, PGI, Chandigarh that the disability in respect of the appellant-Annu has been assessed by the Medical Board as 75%. Moreover, it provided a very meager sum of ₹15,000/- for pain and suffering and future expenses and ₹8000/- for transportation and special diet, thus, the amount of compensation is required to be enhanced by modifying the award passed by the Tribunal.

Mr. Goyal, learned counsel appearing on behalf of the insurance company submits that the award passed by the Tribunal is perfectly legal and justified. All the heads of compensation are taken care properly and there is no scope for enhancement, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. The appellant was admitted in the PGIMER, Chandigarh with head injury, grade three compound fracture of both bones leg left with supra

condylar fracture femur with vascular injury. His leg was amputated at knee level. His disability was assessed as 75% by the Medical Board of Doctors. The Tribunal, in my view, has committed illegality and perversity in not appreciating the medical evidence brought on record by taking the permanent disability of the appellant to the tune of 50%. Therefore, I will take the loss of earning capacity of the appellant as 75%. The Tribunal took the income of the appellant as ₹3900/- per month which I will retain and adopt a multiplier of 18 suitable to the aged of the injured to assess the future loss of earning capacity as ₹6,31,800/-. For pain and suffering I will provide ₹50,000/- and provide another sum of ₹25,000/- for special diet, attendant charges and transportation. I will retain the amount assessed by the Tribunal under the heads of medical expenses, artificial limb and loss of marriage prospects.

In all, the compensation payable shall be ₹8,23,800/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till its realization. The liability shall remain the same as has already been assessed by the Tribunal.

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

(AMIT RAWAL)
JUDGE

August 09, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No