In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 6429 of 2010
Date of Decision: 23.2.2017

Anil ......Appellant

Versus

Prithvi Singh and others ......Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. A.K.Gahlawat, Advocate
for the appellant.

None for respondents No. 1 and 2.

Mr. Rajneesh Malhotra, Advocate
for respondent No. 3.

****

ANITA CHAUDHRY, J

This is the claimant's appeal claiming enhancement of the award allowed by the Motor Accident Claims Tribunal, Rewari vide award dated 26.8.2009.

The claimant met with an accident which led to the amputation of his right arm. He was driving a Tata Sumo. It was claimed that he was a transporter and owned two trucks. The disability was found to be 85%.

The claimant could not lead any evidence with respect to his income though it was claimed that he was earning lacs of rupees but he was not filing income tax returns. He had admitted that he had been maintaining a truck since 2005 and another truck was purchased three days before the accident. The Tribunal took the income to be Rs. 5100/- per month and using the multiplier method and after adopting the correct multiplier i.e. 16 calculated the amount toward disability to be Rs. 6,52,800/- and after adding the bills of Rs. 60,614/-, compensation of Rs. 7,13,414/- was allowed with costs.

The submission on behalf of the appellant is that the Tribunal had failed to award compensation on a number of heads namely pain and suffering, attendant charges, special diet and transportation charges. It was urged that the claimant was shifted to Ganga Ram Hospital, New Delhi and on account of amputation of the arm, he was unable to drive. Reliance was placed upon '***Govind Yadav versus The New India Insurance Company Limited 2011(4) R.C.R. (Civil) 817***'.

The submission on the other hand was that the Tribunal had correctly applied the multiplier method and had granted recovery rights to the insurance company.

The record shows that notice was given to the owner and driver and they were represented by a counsel and there has been no appearance on their behalf for the last three years.

There was no evidence with respect to the income. The claimant did not produce the registration certificate of any of his trucks to raise the monthly income. Therefore, the Tribunal had rightly assumed the income to be Rs. 5100/- per month. There is no appeal by the insurance company. Therefore, no change is required. The multiplier was correctly applied. However, there are certain heads for which no compensation had been awarded. Therefore, it would be just and proper to award the following:-

1.	*Pain and suffering*	*Rs.*	*50,000.00*
2.	*Attendant charges (Rs. 3,000 x 4)*	*Rs.*	*12,000.00*

3.	*Special diet*	*Rs.*	*15,000.00*
4.	*Transportation*	*Rs.*	*10,000.00*
5.	*Loss of amenities of life*	*Rs.*	*25,000.00*
	Total	***Rs.***	***1,12,000.00***

The appellant would be entitled to Rs. 1,12,000/- more. The award is modified. The enhanced amount would be paid at the same rate of interest from the date of filing of the appeal till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

February 23, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No